

In the Matter of **IN THE MATTER OF THE PETITION OF  
KENNEBEC TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION  
OF 47 U.S.C. § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED**

### Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
2/12 04	Filed and docketed;
2/19 04	Weekly Filing;
3/4 04	Petition to Intervene (WVC License L.C.);
3/5 04	SDTA Petition to Intervene;
4/5 04	Order Granting Intervention;
4/19 04	Order Granting Interim Suspension Pending Final Decision;
5/4 04	Order for and Notice of Procedural Schedule and Hearing and of Intent to take Judicial Notice;
5/14 04	Direct Testimony of Steven E. Mathers;
5/17 04	Direct Testimony of Don Davis on behalf of Kennebec Tel. Co. Regarding Company;
5/17 04	Direct Pre-Filed Testimony of Rod Bower;
5/17 04	Direct Testimony of Don Davis on behalf of the above-named Companies;
6/1 04	Testimony of Don Williamson on behalf of WVC License L.C.;
6/11 04	Intervenor's Motion to Compel Discovery <sup>to strike the pre-filed testimony regarding costs;</sup> or in the Alternative to Strike <sup>to strike the pre-filed testimony regarding costs;</sup>
6/11 04	Brief in Support of Intervenor's Motion to Compel Discovery <sup>to strike the pre-filed testimony regarding costs;</sup> or in the Alternative
6/14 04	Rebuttal Testimony of Steven E. Mathers;
6/15 04	Rebuttal Testimony of Don Davis;
6/15 04	Rebuttal Testimony of Rod Bower on behalf of Kennebec;
6/16 04	Supplemental Order for and Notice of Hearing;
6/18 04	Order for and Notice of Hearing on Motion to Compel;
6/18 04	Petitioner's Response in Opposition to Intervenor's Motion to Compel Discovery <sup>to strike the pre-filed testimony regarding costs;</sup> or in the Alternative
6/18 04	Certificate of Admission (Paula Lewis, Intervenor);
6/22 04	Order Admitting Benjamin H. Dikens Jr. and Mary J. Lisk;
7/7 04	Transcripts of Hearings held 6/21/04 to 7/1/04;

7/13/04	Order Establishing Briefing and Decision Schedule;
7/15/04	Order Temporarily Suspending Local Number Portability, Obligations;
8/5/04	Post-Hearing Brief of Petitioners and DOTA;
8/20/04	Staff's Brief;
8/23/04	WMC's Post-Hearing Brief;
8/27/04	Reply Brief of Petitioners and DOTA;
9/4/04	Order Temporarily Suspending Local Number Portability, Obligations;
9/10/04	Transcript of Oral Argument held 8/31/04;
9/30/04	Final Decision and Order; Notice of Entry;
9/30/04	Docket Closed.



TC04-025

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**RECEIVED**

FEB 12 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

February 12, 2004

**OF COUNSEL:**  
Robert D. Hofer  
E. D. Mayer  
TELEPHONE  
605-224-5825  
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605-224-7102

Pamela Bonrud, Executive Director  
S. D. Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Re: Petition of Kennebec Telephone Company for Suspension or Modification of the requirements of § 251(b)(2) of the Communications Act of 1934 as Amended

Dear Ms. Bonrud:

Please find enclosed herein an original and ten copies of the **Petition of Kennebec Telephone Company for Suspension or Modification of the requirements of § 251(b)(2) of the Communications Act of 1934 as Amended.**

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

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FEB 12 2004

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. \_\_\_\_

**I. INTRODUCTION**

Pursuant to Section 251(f)(2) of the Communications Act of 1934, as amended (“the Act”), 47 U.S.C. § 251(f)(2) and South Dakota Codified Laws SDCL § 49-31-80, Kennebec Telephone Company (“Kennebec”) hereby respectfully petitions the South Dakota Public Utilities Commission (the “Commission”) for a suspension or modification of Section 251(b)(2) of the Act.

Section 251(b)(2) states that all local exchange carriers (“LECs”) have “[t]he duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Federal Communications Commission (the “FCC”).”<sup>1</sup> Previously, the FCC established rules to implement local number portability (LNP) by wireline carriers.<sup>2</sup> Portability between wireline carriers was limited to the LEC rate center. In a Memorandum Opinion and Order (the “Order”) and Further Notice of Proposed Rule-making (the “FNPRM”) released on November 10, 2003, the FCC found that LECs also must implement LNP to allow porting to wireless carriers, even when the wireless carrier

<sup>1</sup> 47 U.S.C. § 251(b)(2).

<sup>2</sup> 47 C.F.R. § 52.20 - § 52.33.

does not have interconnection with the LEC or telephone numbers in the affected rate center. In the FNPRM, the FCC asks how LNP can be implemented when there is a "mismatch" in rate centers from a wireless carrier to a wireline carrier and if the current porting interval should be reduced for intermodal porting.

## **II. BACKGROUND**

In support of this petition for suspension or modification of the Order, Kennebec respectfully submits that:

1. Kennebec is a South Dakota corporation with its principal office located at 220 South Main Street, Kennebec, South Dakota 57544. Petitioner is engaged in the provision of general telecommunications services in the State of South Dakota subject to the jurisdiction of this Commission. Kennebec currently provides basic local exchange service in two exchanges and, as of December 1, 2003, had 766 access lines in service.

2. Kennebec has received requests to deploy LNP from Cellco Partnership (dba Verizon Wireless) and Western Wireless Corporation (dba CellularOne). Neither carrier has a point of interconnection or telephone numbers in Kennebec's rate centers.

3. Kennebec is a rural telephone company as defined in 47 U.S.C. § 153(37) and provides telephone exchange service, including exchange access, to fewer than 50,000 access lines, and serves a study area of fewer than 100,000 access lines. Section 251(f)(2) of the Act allows a rural local exchange carrier with fewer than two percent (2%) of the subscriber lines installed in the aggregate nationwide, (as of December 2002,

approximately 188 million local telephone lines)<sup>3</sup> to petition a state commission for a suspension or modification of the application of a requirement provided by 47 U.S.C. § 251(b) and (c).

4. According to the provisions of 47 U.S.C. § 251(f)(2) and SDCL § 49-31-80, the Commission shall grant a petition for suspension or modification to the extent that, and for such duration as, the Commission determines that such suspension or modification:

(A) is necessary:

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

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

5. Pursuant to the above, the Commission must grant a petition for suspension or modification if the Commission finds that any one of the three criteria set forth in sub-part (A) of this statutory section is established and further finds that the suspension or modification is consistent with the public interest, convenience and necessity.

6. Section 251(f)(2) of the Act requires the Commission to take final action on this Petition within 180 days after receipt. Pending such action, pursuant to both federal and state law, the Commission is given express authorization to “suspend or stay enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.” 47 U.S.C. § 251(f)(2) and SDCL 49-31-80. The pro-

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<sup>3</sup> See “Federal Communications Commission Releases Study on Telephone Trends”, FCC News Release (rel. Aug. 7, 2003).

visions of ARSD § 20:10:32:39 reference the Commission's authority under state statute and specifically contemplate that the Commission may grant a "temporary stay" of the "obligations the carrier seeks to suspend or modify" while its proceedings are pending. Suspension of enforcement while the petition is pending allows for rational public policy decision-making. In addition, future FCC Orders regarding wireless-to-wireline LNP addressing issues described in the FNPRM will allow the Commission and Kennebec to assess the full impact (economic and technical) of implementing LNP.

7. The Order does not address issues relating to the routing of calls to ported numbers in those cases in which no direct connections exist between carriers. In light of current routing arrangements, Kennebec contends that it is infeasible to complete such calls on a local, seven-digit dialed basis because Kennebec routes calls terminating outside its service territory, including calls to wireless carriers, to interexchange carriers. In addition, when the Commission considers the initial and ongoing costs of LNP, Kennebec believes the Commission will determine that such costs create an adverse economic impact on telecommunications users and a requirement that is unduly economically burdensome. The economic impact may be even more detrimental to Kennebec or its end users if the FCC shortens the porting interval and/or forces LECs to absorb additional network costs as contemplated by the FCC in its FNPRM. Absent full consideration of the aforementioned issues, Kennebec contends that it is not consistent with the public interest, convenience and necessity to expend the significant investment necessary to deploy LNP. Granting of this petition will permit the Commission to ensure that the public in-

terest, convenience and necessity are not undermined as a result of unanswered implementation issues associated with the provision of LNP.

### **III. ARGUMENT**

#### **A. LNP Will Cause Significant Adverse Economic Impact on Users of Kennebec's Telecommunications Services.**

8. Section 251(f)(2) of the Act provides this Commission with the authority to ensure that the uncertain state of federal law, with respect to LNP, does not have a significant adverse economic impact on users of telecommunications services in the State of South Dakota. The Act vests this Commission with authority to balance the requests for LNP with the potential economic harm to telecommunication users. It is the Commission's responsibility to determine whether implementation of LNP by Kennebec would impose a significant adverse economic impact on telecommunication users in the Kennebec service area.

9. Kennebec requests suspension of the LNP requirement in Section 251(b)(2) of the Act because, as shown in Exhibit 1, implementation of LNP would impose a significant adverse economic impact on users of telecommunications services generally. FCC rules allow recovery of certain LNP costs from carriers or from end users through a monthly surcharge imposed over a five-year recovery period.<sup>4</sup> Certain costs associated with LNP cannot be recovered through the end user LNP surcharge or carrier charges. These costs must be recovered, if at all, through the LEC's general rates and charges.

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<sup>4</sup> 47.C.F.R. § 52.33.

10. Kennebec estimates that the increase in a subscriber's local service cost that would result from LNP implementation would equal \$5.70 per month for five years,<sup>5</sup> an increase of over 35% based upon the current residential rate of \$16.00 per line per month. This estimated increase in the local service cost does not include any cost associated with the provision of transporting calls to ported numbers outside of Kennebec's local service areas. Kennebec estimates that if it is required to absorb transport costs to wireless carriers whose point of interconnection is located somewhere outside of Kennebec's service area, the total increase in a subscriber's local service cost would equal \$13.32 per month for five years,<sup>6</sup> an increase of 83% over the current monthly residential rate of \$16.00 per line. This cost recovery will have a significant adverse economic impact on users of telecommunications service in Kennebec's service area.

11. Additional unknown costs of LNP could increase the financial burden. The costs as set forth in Exhibit 1 do not include any cost associated with reducing the porting interval as contemplated by the FCC in its FNPRM. Such reductions of the porting interval may require Kennebec to make significant changes to its operations thereby increasing the cost to provide LNP.<sup>7</sup> The costs as set forth in Exhibit 1 do not include other costs that may be imposed on Kennebec as a result of other rulings by the FCC in its FNPRM. The FCC has sought comment on how to facilitate wireless-to-wireline porting where there is a mismatch between the rate center associated with the wireless num-

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<sup>5</sup> The Applicant is reviewing these cost estimates and reserves the right to amend these estimates in the future.

<sup>6</sup> The FCC stated in footnote 75 of the Order, that a dispute as to which carrier is responsible for transport costs when the routing point for the wireless carrier's switch is located outside the wireline local calling area in which the number is rated does not provide a reason to delay porting from wireline to wireless carriers.

<sup>7</sup> FNPRM, para 45.

ber and the rate center in which the wireline carrier seeks to serve the customer.<sup>8</sup> The FCC sought comment on the extent to which wireline carriers should absorb the cost of allowing the customer with a number ported from a wireless carrier to maintain the same local calling area that the customer has with the wireless service provider. The FCC further sought comment on the procedural, technical, financial, and regulatory implications of any such approach. These proposals would also increase the cost of LNP, however, it is not clear to what extent.

12. Thus, until the FCC has released a final Order regarding the issues in its FNPRM, Kennebec is unable to make a determination of its total costs to implement and to provide LNP and is unable to determine the total economic impact on the users of telecommunications service in its service area.

#### **B. LNP Would Be Unduly Economically Burdensome for Kennebec**

13. Implementation of wireline-to-wireless LNP, under the current guidance provided by the FCC, will be unduly economically burdensome for Kennebec. Any cost not recovered through the end-user LNP charge or carrier charge may have to be borne by Kennebec. Granting Kennebec a suspension of the requirements of 47 U.S.C. § 251(b)(2) pursuant to Section 251(f)(2) of the Act will avoid the imposition of a requirement upon Kennebec that is unduly economically burdensome.

14. The estimated costs of LNP, set forth in Exhibit 1, are presented on a per line basis. However, there is no certainty that LNP costs will be paid by current Kennebec subscribers. For example, there are potential issues concerning which costs will be borne directly by the customer and which costs will be borne by Kennebec. Further,

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<sup>8</sup> Id at para 42.



based upon the substantial increase in the cost per line per month caused by LNP, there is no guarantee that all such costs would ultimately be passed on to the end-user in the form of a rate increase. The potential costs that may be incurred by Kennebec would be unduly economically burdensome.

15. As shown, LNP implementation could result in the assessment of a new LNP surcharge on Kennebec's telephone subscribers and could increase local rates. These actions would make Kennebec's service offering less competitive with the services provided by wireless carriers. Wireless carriers already enjoy a number of competitive advantages over wireline carriers. For example, because of their FCC licensed service areas, wireless carriers have larger local calling areas, larger service territories, and more potential customers to absorb the cost of LNP. By increasing the cost of service, LNP would make wireline service even less competitive with wireless service.

16. If the costs were assigned completely to the Kennebec subscribers, the large size of the surcharge may cause a segment of the Kennebec customers to discontinue service. The reduction in line count would not allow for the full recovery of LNP costs, causing a negative impact on Kennebec's revenue and laying the foundation for an ever-escalating burden on the remaining network users to fund common network costs.

17. Pursuant to the FCC's Order, although wireline carriers have been ordered to port numbers to wireless carriers when the wireless carrier has no point of interconnection or numbers in the LEC's rate centers, the FCC does not require wireless carriers to port numbers under the same circumstances to wireline carriers. Thus the current porting

requirement is a one-way requirement – Kennebec can lose customers through porting to the wireless carriers, but it cannot gain customers from them.

18. In light of these implementation costs and the unresolved issues still pending before the FCC, the Commission’s suspension of the requirement on Kennebec to provide wireline-to-wireless LNP is consistent with Section 251(f)(2)(A)(ii) of the Act.

### **C. LNP is Currently Infeasible.**

19. Although the FCC stated in the Order that it found no persuasive evidence in the record indicating that significant technical difficulties exist that would prohibit a wireline carrier from porting a number to a wireless carrier that does not have a point of interconnection in the same rate center as the ported number, the FCC delayed its decision regarding the routing of calls to ported numbers where no direct connections existed until its decision in the *Sprint Petition*.<sup>9</sup> The FCC recognized that issues exist with respect to call routing in those instances of porting numbers from a wireline carrier to a wireless carrier where no direct connection exists between the carriers. The FCC however, made no determination as to the proper routing of such calls.<sup>10</sup>

20. The current technical issues with wireline-to-wireless LNP implementation will lead to user confusion. If a Kennebec telephone number is ported to a wireless carrier, a Kennebec end user originating a local exchange service call to the ported number will continue to dial such number on a seven-digit basis. The Kennebec switch will perform a database dip and determine that the number has been ported to a wireless carrier. The switch will search for a trunk over which to route the call. If a direct trunk

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<sup>9</sup> *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002 (“Sprint Petition”).

group has not been established with the wireless provider, the switch will be unable to find a trunk for such routing. In such a case, the party placing the call will likely receive a message that the call cannot be completed as dialed, or a message instructing the party to redial using 1+ the area code. Confusion among telephone users will occur since calls, dialed on a seven-digit basis prior to the number being ported, may be required to be dialed on a 1+ toll basis for which a toll charged is assessed by the calling party's preferred interexchange carrier.

21. Since Kennebec is an Incumbent Local Exchange Carrier, it does not carry local traffic to points of interconnection beyond its local exchange. In those exchanges where a wireless provider has not deployed a direct facility and does not have a point of interconnection within that exchange, it is infeasible for Kennebec to route a call to the wireless provider on a local, seven digit-dialed basis because Kennebec routes calls terminating outside its service territory to interexchange carriers.

**D. Suspension of the Requirement to Implement LNP Is Consistent With The Public Interest, Convenience, and Necessity.**

22. The standard of public interest, convenience, and necessity consists of an evaluation of the benefit that consumers will receive from LNP compared to the costs of implementation and use. Central to this evaluation is the level of demand that exists for LNP in Kennebec's service area and the costs of implementation and use.

23. As of the date of this filing, no Kennebec customer has ever made an inquiry to Kennebec regarding LNP. No public benefit will be derived from LNP absent demand for such service in Kennebec's service area. Even if some level of LNP demand

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<sup>10</sup> Order, para. 40.

develops in the future, Kennebec contends the costs that would be incurred by all subscribers and Kennebec to implement and maintain LNP would not be consistent with the public interest, convenience and necessity.

24. Notwithstanding the costs of LNP implementation, absence of demand for such service and in light of the routing issues that exist regarding such implementation, Kennebec has received LNP requests from wireless carriers that have not deployed direct connection facilities to Kennebec's exchanges. Without the proper infrastructure in place to route a call to a ported number on a seven-digit basis, calls cannot be completed as dialed. The porting of numbers from Kennebec to wireless carriers that do not have direct connections with Kennebec will not benefit consumers of telecommunications since, as described above, calls will not be completed as dialed. For this further reason, granting of the requested suspension is consistent with the public interest, convenience and necessity.

25. The rating, routing and consumer confusion issues associated with wireline-to-wireless portability as currently ordered by the FCC are contrary to the public interest.

26. In its FNPRM, the FCC sought comment on whether the benefits associated with offering wireless-to-wireline porting would outweigh the costs associated with making the necessary upgrades. The FCC also sought comment on the expected demand for wireless-to-wireline porting. The FCC did not seek comment on whether the benefits associated with offering wireline-to-wireless porting would outweigh the costs nor did it seek comment on the expected level of demand. The Commission, pursuant to Section

251(f)(2)(B) may make such determination. Kennebec recommends that the Commission, after reviewing the costs associated with making the necessary upgrades along with the expected level of demand should conclude that suspending the requirement to implement wireline-to-wireless LNP is consistent with the public interest, convenience, and necessity.

## **V. CONCLUSION**

27. As demonstrated, Kennebec has met the criteria set forth in 47 U.S.C. § 251(f)(2)(A), and the suspension requested in this proceeding is consistent with the public interest, convenience and necessity requirement set forth in 47 U.S.C. § 251(f)(2)(B). Accordingly, the Commission must grant the petition for suspension or modification.

28. Kennebec requests suspension of the LNP requirement until there is evidence of demand for LNP, and the per-line cost of LNP is reduced. At a minimum, suspension should be granted until six months following the FCC's full and final disposition of the issues associated with the porting interval and the routing of calls between wireline and wireless providers, at which time Kennebec may need to seek further § 251(f)(2) relief based upon the economic impact of these decisions.

29. Kennebec also requests immediate suspension of the § 251 (b)(2) requirement pending the Commission's consideration of this request until six months following this Commission's decision. Immediate suspension is necessary so that Kennebec does not have to start incurring LNP implementation costs until after the Commission acts on this Petition.

WHEREFORE, Kennebec respectfully requests the Commission to:

(A) Issue an interim order that suspends any obligation that may exist for Kennebec to provide LNP until six months after entry of a final order herein;

(B) Issue a final order that grants a permanent suspension for Kennebec's obligation to implement LNP until conditions are met as described herein; and

(C) Grant Kennebec such other and further relief that may be proper.

Dated this 12<sup>th</sup> day of February, 2004.

KENNEBEC TELEPHONE COMPANY, Petitioner:

By:

Darla Pollman Rogers

Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889  
Attorneys for Petitioner

**Kennebec Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 47,979	
Internal Business Procedure Changes (1)	\$ 20,426	
Intercarrier Testing	\$ 3,000	
Other Internal Costs (2)	\$ 23,825	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ 1,900	
Customer Notification Costs	\$ 825	
Total Non-recurring Costs excluding transport	\$ 98,145	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 99,546	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 1,350	
LNP Query Costs per month	\$ 150	
Total Recurring Monthly Costs excluding Transport	\$ 1,500	
Transport	\$ 4,837	
Total Recurring Monthly Costs including Transport	\$ 6,337	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,146	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,177	
Total cost per month excluding transport	\$ 3,646	
Total cost per month including transport	\$ 8,514	
Access Lines excluding Lifeline	735	
LNP cost per line per month excluding transport (5)	\$ 4.96	\$ 5.70
LNP cost per line per month including transport (5)	\$ 11.58	\$ 13.32

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**  
**For the Period of February 12, 2004 through February 18, 2004**

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact  
Delaine Kolbo within five business days of this report. Phone: 605-773-3201

**ELECTRIC**

**EL04-005      In the Matter of the Filing by Otter Tail Power Company for Approval of Tariff Revisions.**

Application by Otter Tail Power Company (Otter Tail) for approval to revise its tariffed Summary List of Contracts with Deviations. The existing contract with the City of Milbank will expire on March 14, 2004. Otter Tail states the new agreement does not contain any deviations from Otter Tail's currently filed tariff and therefore requests that reference to a contract with the City of Milbank be removed from the Summary List of Contracts with Deviations.

Staff Analyst: Dave Jacobson  
Staff Attorney: Karen Cremer  
Date Filed: 02/13/04  
Intervention Deadline: 03/05/04

**TELECOMMUNICATIONS**

**TC04-025      In the Matter of the Petition of Kennebec Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934 as Amended.**

On February 12, 2004, Kennebec Telephone Company (Kennebec) filed a petition seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. According to Kennebec, it has received requests to deploy LNP from Cellco Partnership d/b/a Verizon Wireless and from Western Wireless Corporation d/b/a CellularOne. Kennebec states that it is a small telephone company that serves less than two percent of the nation's subscriber lines installed in the aggregate nationwide, therefore under Section 251(f)(2) Kennebec may petition the Commission for suspension or modification of its obligation to implement LNP within six months of a request to deploy LNP. Kennebec "requests the Commission to (1) issue an interim order that suspends any obligation that may exist for Kennebec to provide LNP until six months after entry of a final order herein; (2) issue a final order that grants a permanent suspension for Kennebec's obligation to implement LNP until conditions are met as described herein; and (3) grant Kennebec such other and further relief that may be proper."

Staff Analyst: Harlan Best  
Staff Attorney: Karen Cremer  
Date Filed: 02/12/04  
Intervention Deadline: 03/05/04

**TC04-026      In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and 1-800-RECONEX, Inc.**

On February 17, 2004, the Commission received a Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and 1-800-RECONEX, Inc. According to the parties, the Amendment is made in order to add UNE-P PAL language to the Agreement as outlined in the Amendment. The original Agreement was approved by the Commission in Docket



TC01-069 on July 27, 2001. Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 8, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Filed: 02/17/04  
Initial Comments Due: 03/08/04

**TC04-027      In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Stockholm-Strandburg Telephone Company.**

On February 17, 2004, the Commission received a Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Stockholm-Strandburg Telephone Company. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of telecommunications traffic in accordance with Section 251(b)(5) of the Telecommunications Act of 1996. Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 8, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Filed: 02/17/04  
Initial Comments Due: 03/08/04

**TC04-028      In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Western Telephone Company.**

On February 17, 2004, the Commission received a Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Western Telephone Company. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of telecommunications traffic in accordance with Section 251(b)(5) of the Telecommunications Act of 1996. Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 8, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Filed: 02/17/04  
Initial Comments Due: 03/08/04

**TC04-029      In the Matter of the Application of Southwestern Bell Communications Services Inc. d/b/a SBC Long Distance for a Certificate of Authority to Provide Local Exchange Services in South Dakota.**

On February 18, 2004, Southwestern Bell Communications Services Inc. d/b/a SBC Long Distance filed an application for a Certificate of Authority to provide Telecommunications Services in South Dakota. Southwestern Bell Communications Services intends to provide resold and facilities-based local exchange and exchange access services throughout the area in the State of South Dakota currently served by Qwest Corporation. The applicant's services, include, but are not limited to basic local exchange service, custom calling features, CLASS services and data services. The applicant also proposes to provide exchange access services to interconnecting carriers.

Staff Analyst: Michele Farris  
Staff Attorney: Karen Cremer  
Date Filed: 02/18/04  
Intervention Deadline: 03/05/04

**TC04-030      In the Matter of Qwest Corporation's Modification to Exhibit B to the Statement of Generally Available Terms and Conditions.**

On February 18, 2004, Qwest Corporation filed an Updated Exhibit B, the Performance Indicator Definitions (PIDs) to the Statement of Generally Available Terms and Conditions (SGAT). Qwest modified Exhibit B for administrative changes, corrected PO-16, Timely Release Notifications, and updated certain subparts to GA-1, Gateway Availability -- IMA-GUI. Qwest requests that the Commission permit the amended Exhibit B to go into effect no longer than 60 days after submission in accordance with 47 U.S.C. Section 252(f)(3). Qwest further requests that the Commission deem this revised Exhibit B to modify the SGAT and existing interconnection agreements that currently contain the PIDs as an exhibit.

Staff Analyst: Harlan Best  
Staff Attorney: Karen E. Cremer  
Date Filed: 02/18/04  
Intervention Deadline: 03/05/04

**TC04-031      In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and West River Telecommunications Cooperative.**

On February 18, 2004, the Commission received a Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC (Western Wireless) and West River Telecommunications Cooperative. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of telecommunications traffic in accordance with Section 251(b)(5) of the Telecommunications Act of 1996. Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 9, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Filed: 02/18/04  
Initial Comments Due: 03/09/04

**TC04-032      In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Cheyenne River Sioux Tribe Telephone Authority.**

On February 18, 2004, the Commission received a Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Cheyenne River Sioux Tribe Telephone Authority. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of telecommunications traffic in accordance with Section 251(b)(5) of the Telecommunications Act of 1996. Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 9, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Filed: 02/18/04  
Initial Comments Due: 03/09/04

**TC04-033      In the Matter of the Filing for Approval of a Reciprocal Interconnection,  
Transport and Termination Agreement between WWC License, LLC and  
Venture Communications Cooperative.**

On February 18, 2004, the Commission received a Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License, LLC and Venture Communications Cooperative. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of telecommunications traffic in accordance with Section 251(b)(5) of the Telecommunications Act of 1996. Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 9, 2004. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Filed: 02/18/04  
Initial Comments Due: 03/09/04

**TC04-034      In the Matter of the Request for a Confidentiality Determination in  
Accordance with ARSD 20:10:01:42.**

On February 18, 2004, the Commission received a request from staff for a confidentiality determination in accordance with ARSD 20:10:01:42. According to the request, staff is attempting to make claims on the bond proceeds of S&S Communications (S&S). In order to make these claims, staff must provide information to the bonding companies which has been filed as confidential. S&S refuses to permit the release of information filed as confidential to any bonding company that does not sign a confidentiality agreement. The companies have provided staff with Indemnity Agreements signed by S&S which they claim gives them a right to see the information. Neither company has signed the confidentiality agreement. Staff has requested that the Commission make a determination that the information should not be treated as confidential on the basis that the information was not filed in compliance with the provisions of ARSD 20:10:01:41, S&S cannot meet the burden established in ARSD 20:10:01:43 and that the Indemnity Agreements that S&S signed with the bonding companies constitute a waiver of confidentiality as to those companies.

Staff Attorney: Kelly Frazier  
Date Filed: 02/18/04

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AMY K. SCHULDT  
JASON M. SMILEY

RECEIVED

MAR 05 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**VIA FACSIMILE 1-605-773-3809**

Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 E Capitol Avenue  
Pierre SD 57501

**FAX Received** MAR 04 2004

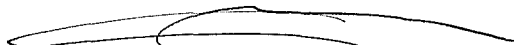
RE: WWC's Petition to Intervene  
TC 04-025

Dear Ms. Bonrud:

Enclosed for filing, please find Western Wireless' Petition to Intervene In the Matter of the Petition of Kennebec Telephone Company for Suspension or Modification of § 251(b)(2) of the Communications Act of 1934 as Amended.

This letter, the original of the enclosure and ten copies, shall be provided by U.S. Mail. If you need anything further at this time, please let me know.

Sincerely,



Talbot J. Wiczorek

TJW:klw  
Enclosure

c: (via fax and US Mail)

Darla Pollman Rogers  
Clients

MAR 05 2004

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

---

In the Matter of the Petition of Kennebec  
Telephone Company for Suspension or  
Modification of § 251(b)(2) of the  
Communications Act of 1934 as Amended

Docket No. TC 04-025

**PETITION TO INTERVENE**

---

Pursuant to ARSD 20:10:01:15.02, WWC License LLC, doing business as CellularOne, (hereinafter "Western Wireless"), petitions to intervene in Docket TC 04-025 for the following reasons:

1. Western Wireless is a cellular service provider in areas served by Kennebec Telephone Company, (hereinafter "Kennebec"), who has requested suspension on its local number portability obligations at issue in this proceeding. Western Wireless sent Kennebec a bonafide request ("BFR") to implement local number portability on November 18, 2004 and Kennebec responded on November 21, 2004, implicitly acknowledging its obligation to implement local number portability by the May 24, 2004 deadline. Rural consumers are increasingly choosing wireless service for their telecommunications needs and may choose to port their wireline number to Western Wireless upon the implementation of number portability as mandated by the Federal Communications Commission. Western Wireless has direct and personal interest in this proceeding and therefore its Petition for Intervention should be granted.
2. Local number portability by Kennebec is feasible and appropriate and no suspension of providing LNP should be allowed.
3. To suspend the obligations of Kennebec to deploy local number portability would be against public interest.

4. Western Wireless also contests Kennebec's request for immediate suspension of local number portability requirements and requests that the Commission, at a minimum, establish an expedited procedural schedule that would determine the factual and legal support for a decision on the merits of Kennebec's request for local number portability suspension.

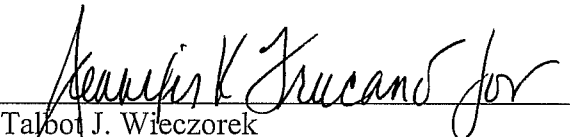
5. Western Wireless is entitled to be granted intervention in this docket pursuant to ARSD 20:10:01:15.05 as the outcome of this proceeding will have an impact on Western Wireless and will affect Western Wireless, because, as noted even in the Kennebec's filing, Western Wireless has requested Kennebec deploy local number portability.

WHEREFORE, Western Wireless respectfully requests:

1. That its Petition to Intervene be granted;
2. That Kennebec's request for immediate suspension be denied; and
3. That Kennebec's request to suspend deploying LNP be denied.

Dated this 4<sup>th</sup> day of March, 2004.

GUNDERSON, PALMER, GOODSSELL  
& NELSON, LLP

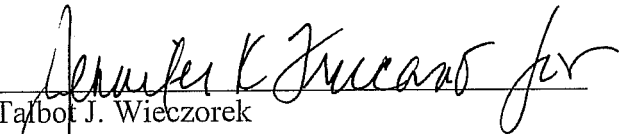
  
Talbot J. Wiecezorek  
Attorneys for WWC License LLC  
440 Mt. Rushmore Road, Fourth Floor  
PO Box 8045  
Rapid City SD 57709  
605-342-1078  
Fax: 605-342-0480

## CERTIFICATE OF SERVICE

The undersigned certifies that on the 4<sup>th</sup> day of March, 2004, I served a true and correct copy of the foregoing Petition to Intervene, by fax and U.S. Mail, first-class, postage paid to:

**VIA FACSIMILE 1-605-224-7102**

Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
PO Box 280  
Pierre, SD 57501

  
\_\_\_\_\_  
Talbot J. Wieczorek



South Dakota Telecommunications Association  
PO Box 57 ■ 320 East Capitol Avenue ■ Pierre, SD 57501  
605/224-7629 ■ Fax 605/224-1637 ■ sdtanonline.com

*Rural roots, global connections*

March 5, 2004

**RECEIVED**

**MAR 05 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Ms. Pamela Bonrud, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Ave.  
State Capitol Building  
Pierre, SD 57501

RE: Docket TC04-025, Kennebec Telephone Company Petition for  
Suspension or Modification

Dear Ms. Bonrud:

Attached for filing with the Commission in the above referenced docket are the original and ten (10) copies of a Petition to Intervene of the South Dakota Telecommunications Association.

You will also find attached to the Petition a certificate of service verifying service of this document, by mail, on counsel for the Kennebec Telephone Company.

Thank you for your assistance in filing and distributing these documents.

Sincerely,

Richard D. Coit  
Executive Director and General Counsel  
SDTA



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**RECEIVED**

**MAR 05 2004**

**IN THE MATTER OF THE PETITION OF  
KENNEBEC TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF §  
251(b)(2) OF THE COMMUNICATIONS ACT  
OF 1934 AS AMENDED**

)  
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**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**DOCKET TC04-025  
PETITION TO INTERVENE**

**SDTA Petition for Intervention**

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. Kennebec Telephone Company (hereinafter referenced as "Kennebec") on or about February 12, 2004, filed with this Commission pursuant to 47 U.S.C. § 251(f)(2) and SDCL § 49-31-80 a petition seeking a suspension or modification of the Local Number Portability ("LNP") requirement set forth in 47 U.S.C. § 251(b)(2) and LNP requirements established by the FCC in its *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, released in CC Docket No. 95-116 on November 10, 2003 (FCC 03-284).

2. As noted in the Kennebec Petition, Kennebec is a rural telephone company as defined in 47 U.S.C. § 153(37) and currently provides basic local exchange service in two exchanges in South Dakota, serving a total of 766 access lines. Pursuant to 47 U.S.C. § 251(f)(2), any rural local exchange carrier serving fewer than two percent (2%) of the Nation's subscriber line installed in the aggregate nationwide may petition the State Commission for a suspension or modification of any of the interconnection obligations set forth in 47 U.S.C. §§ 251(b) and/or 251(c). According to the provisions of 47 U.S.C. 251(f)(2) and SDCL 49-31-80, this

Commission shall grant a petition of suspension or modification to the extent that, and for such duration as the State Commission determines that such suspension or modification –

(A) is necessary:

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible; and

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

3. Pursuant to the above, the Commission must grant a petition for suspension or modification if the Commission finds that any of the three criteria set forth in sub-part (A) of this statutory section is established and further finds that the suspension or modification is consistent with the public interest, convenience and necessity.

4. Kennebec has to date received received two LNP implementation requests, one from Cellco Partnership (dba Verizon Wireless) and another from Western Wireless Corporation (dba Cellular One). Neither of these carriers has a point of interconnection or telephone numbers within Kennebec's wire or rate centers.

5. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota. Its membership includes not only the Kennebec Telephone Company, but also many other rural telephone companies operating in the State that have also recently received requests for LNP implementation from other telecommunications carriers.

6. SDTA seeks intervention in this proceeding based on the direct interests of Kennebec Telephone Company, as the petitioning party in this proceeding, and also based on the likelihood that determinations made by the Commission in this matter will impact future similar proceedings to be initiated by other SDTA member companies. Accordingly, SDTA has an interest in this proceeding and seeks intervention herein.

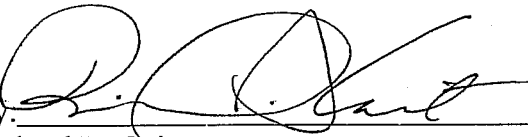
7. SDTA supports the Kennebec request for suspension or modification of the federal LNP requirements for all those reasons set forth in Kennebec's Petition filed in this matter, and strongly urges the Commission to grant the relief requested.

8. Based on all of the foregoing, SDTA seeks intervening party status in this proceeding.

Dated this 5th day of March , 2004.

Respectfully submitted:

THE SOUTH DAKOTA  
TELECOMMUNICATIONS ASSOCIATION

By:   
Richard D. Coit  
Executive Director and General Counsel

## CERTIFICATE OF SERVICE

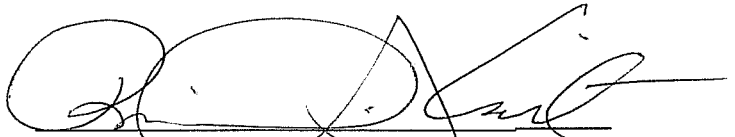
I hereby certify that an original and ten (10) copies of the foregoing document were hand-delivered on March 5, 2004 to:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

A copy was sent by First Class Mail via U.S. Postal Service to:

Darla Pollman Rogers  
Riter Rogers Wattier & Brown  
PO Box 280  
Pierre, SD 57501-0280

*Dated March 5, 2004*

A handwritten signature in black ink, appearing to read 'Richard D. Coit', is written over a horizontal line.

Richard D. Coit, General Counsel  
South Dakota Telecommunications Association  
320 East Capitol Avenue – PO Box 57  
Pierre, South Dakota 57501-0057  
Telephone (605) 224-7629

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE PETITION OF )</b>	<b>ORDER GRANTING</b>
<b>KENNEBEC TELEPHONE COMPANY FOR )</b>	<b>INTERVENTION</b>
<b>SUSPENSION OR MODIFICATION OF 47 )</b>	
<b>U.S.C. § 251(B)(2) OF THE COMMUNICATIONS )</b>	<b>TC04-025</b>
<b>ACT OF 1934 AS AMENDED )</b>	

On February 12, 2004, Kennebec Telephone Company (Kennebec) filed a petition seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. According to Kennebec, it has received requests to deploy LNP from Cellco Partnership d/b/a Verizon Wireless and from Western Wireless Corporation d/b/a CellularOne. Kennebec states that it is a small telephone company that serves less than two percent of the nation's subscriber lines installed in the aggregate nationwide, therefore under Section 251(f)(2) Kennebec may petition the Commission for suspension or modification of its obligation to implement LNP within six months of a request to deploy LNP. Kennebec "requests the Commission to (1) issue an interim order that suspends any obligation that may exist for Kennebec to provide LNP until six months after entry of a final order herein; (2) issue a final order that grants a permanent suspension for Kennebec's obligation to implement LNP until conditions are met as described herein; and (3) grant Kennebec such other and further relief that may be proper."

On February 19, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of March 5, 2004, to interested individuals and entities. WWC License LLC d/b/a CellularOne (Western Wireless) filed to intervene on March 4, 2004. The South Dakota Telecommunications Association (SDTA) filed to intervene on March 5, 2004.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31 and ARSD 20:10:01:15.05.

At a regularly scheduled meeting of March 23, 2004, the Commission found that the Petitions to Intervene were timely filed and demonstrated good cause to grant intervention. It is therefore

ORDERED, that the Petitions to Intervene of Western Wireless and SDTA are hereby granted.

Dated at Pierre, South Dakota, this 5<sup>th</sup> day of April, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Melaine Kolbo

Date: 4/6/04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman

Gary Hanson  
GARY HANSON, Commissioner

# GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

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ATTORNEYS LICENSED TO PRACTICE IN  
SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA  
COLORADO, MONTANA, WYOMING & MINNESOTA

April 5, 2004

RECEIVED

APR 06 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

VIA FAX 605-773-3809

Email [pam.bonrud@state.sd.us](mailto:pam.bonrud@state.sd.us)  
and U.S. Mail

Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 E Capitol Avenue  
Pierre SD 57501

RE: Petition of Kennebec Telephone Company for Suspension of Intermodal Local  
Number Portability Obligations TC04-025  
Petition of Santel Comm. Cooperative, Inc. for Suspension of Intermodal Local  
Number Portability Obligations TC04-038

Dear Ms. Bonrud:

It is my understanding that the above matters were noticed on the Addendum sent out Friday for the Commission meeting of tomorrow so there could be discussion on what standard may be imposed in determining whether interim suspension would be granted. This letter is an attempt to provide a quick summary of the position WWC License LLC (Western Wireless) contends would be the appropriate standard. I apologize for the lateness of this letter, but, as you are aware, the addendum was only sent out Friday morning and I became aware of the issue when talking to John Smith in a telephone conversation at about noon on Friday. To make forwarding this filing easier, I have also emailed it to you.

Neither federal law nor South Dakota law definitively establishes the standards that apply to a rural carrier's petition for interim suspension of Local Number Portability under SDCL §49-31-80 or 47 U.S.C. 251(f). The body of law that most closely resembles a request for interim relief is that law surrounding injunctive relief. The South Dakota Supreme Court has adopted standards for injunctive relief hearings. Dacy v. Gors, 471 NW2d 576, 579 (S.D. 1991). Under this line of authority, the following standards apply to requests for interim relief from statutory obligations pending a full hearing on the merits.

1. Threat of irreparable harm to the movant;
2. The state of the balance between the time and the injury that granting the injunction will inflict on other parties;
3. The probability that movant will succeed on the merits; and
4. The public interest.

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

Pam Bonrud  
April 5, 2004  
Page 2

Id.

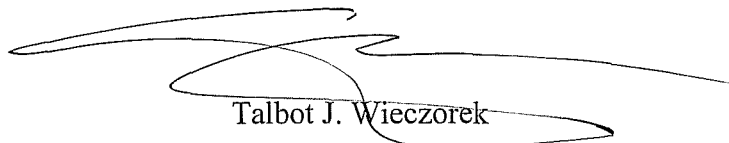
In such proceedings, evidence is required and generally some type of hearing is held. Western Wireless would not see this hearing as being a full hearing on all issues, but simply a hearing where the movants, in this case, Santel and Kennebec, would have to make an evidentiary showing regarding the four factors set forth above.

Although the FCC has not set forth any specific standards with respect to these hearings, a review of the FCC standards with respect to petitions for stays confirms the fact that the FCC adopts a very similar standard as the South Dakota Supreme Court has adopted with respect to preliminary injunctions. See In the Matter of Telephone Number Portability, United States Telecom Association and CenturyTel of Colorado, Inc., Joint Petition for Stay Pending Judicial Review, CC Docket No. 95-116 (Nov. 20, 2003). Moreover, while federal law did not set forth what standard should be applied in granting interim relief, it cannot be disputed that the burden of proof for any relief under 47 U.S.C. 251(f) falls upon the rural telephone companies seeking such relief. 47 C.F.R. § 51.405(a).

The burden to show that interim relief should be granted must fall on the rural telephone companies seeking that relief. The preliminary injunction case law in South Dakota and similar case law in federal agency decisions provides a readily available framework to make a determination of whether interim relief should be granted pending a full hearing on all issues. Because of this, Western Wireless believes this standard should be used in determining whether the interim relief requested by Santel Communications and Kennebec Telephone should be granted.

Please contact me if you have any additional questions.

Sincerely,



Talbot J. Wiczorek

TJW:klw

c: Gene DeJordy  
RaeAnn Kelsch  
Richard Coit via fax 1-605-224-1637  
Darla Pollman Rogers via fax 1-605-224-7102  
John Smith, SDPUC via email  
Karen Cremer, SDPUC via email  
Jeff Larson via fax 1-605-796-4227  
David Gerdes via fax 1-605-224-6289

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE PETITION OF</b>	)	<b>ORDER GRANTING INTERIM</b>
<b>KENNEBEC TELEPHONE COMPANY FOR</b>	)	<b>SUSPENSION PENDING</b>
<b>SUSPENSION OR MODIFICATION OF 47</b>	)	<b>FINAL DECISION</b>
<b>U.S.C. § 251(B)(2) OF THE COMMUNICATIONS</b>	)	
<b>ACT OF 1934 AS AMENDED</b>	)	<b>TC04-025</b>

On February 12, 2004, Kennebec Telephone Company (Kennebec) filed a petition seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. According to Kennebec, it has received requests to deploy LNP from Cellco Partnership d/b/a Verizon Wireless and from Western Wireless Corporation d/b/a CellularOne. Kennebec states that it is a small telephone company that serves less than two percent of the nation's subscriber lines installed in the aggregate nationwide, therefore under Section 251(f)(2) Kennebec may petition the Commission for suspension or modification of its obligation to implement LNP within six months of a request to deploy LNP. Kennebec "requests the Commission to (1) issue an interim order that suspends any obligation that may exist for Kennebec to provide LNP until six months after entry of a final order herein; (2) issue a final order that grants a permanent suspension for Kennebec's obligation to implement LNP until conditions are met as described herein; and (3) grant Kennebec such other and further relief that may be proper."

On February 19, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of March 5, 2004, to interested individuals and entities. WWC License LLC d/b/a CellularOne (Western Wireless) filed to intervene on March 4, 2004, and the South Dakota Telecommunications Association (SDTA) filed to intervene on March 5, 2004. At a regularly scheduled meeting of March 23, 2004, the Commission granted intervention to Western Wireless and SDTA.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31.

At a regularly scheduled meeting of April 6, 2004, the Commission heard arguments from Kennebec, Western Wireless and SDTA regarding Kennebec's request for an order granting interim suspension. Pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80, the Commission voted to grant the request for an interim suspension order pending final decision. It is therefore

**ORDERED**, that the request for an interim suspension order pending final decision is hereby granted.



Dated at Pierre, South Dakota, this 19<sup>th</sup> day of April, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: *Rebecca Kolbo*

Date: *4/20/04*

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Robert K. Sahr*

ROBERT K. SAHR, Chairman

*Gary Hanson*

GARY HANSON, Commissioner

*James A. Burg*

JAMES A. BURG, Commissioner

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE PETITION OF</b>	)	<b>ORDER FOR AND NOTICE</b>
<b>KENNEBEC TELEPHONE COMPANY FOR</b>	)	<b>OF PROCEDURAL</b>
<b>SUSPENSION OR MODIFICATION OF 47</b>	)	<b>SCHEDULE AND HEARING</b>
<b>U.S.C. § 251(B)(2) OF THE COMMUNICATIONS</b>	)	<b>AND OF INTENT TO TAKE</b>
<b>ACT OF 1934 AS AMENDED</b>	)	<b>JUDICIAL NOTICE</b>
	)	<b>TC04-025</b>

On February 12, 2004, Kennebec Telephone Company (Kennebec or Petitioner) filed a petition pursuant to 47 U.S.C. Section 251(f)(2) and SDCL 49-31-80 seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. The petition requests the Commission to (1) issue a final order that grants a permanent suspension for Kennebec's obligation to implement LNP until conditions are met as described in the petition; and (2) grant Kennebec such other and further relief that may be proper. On April 5, 2004, the Commission issued an order granting intervention to WWC License LLC d/b/a CellularOne and the South Dakota Telecommunications Association. On April 19, 2004, the Commission issued an order granting Kennebec's request for interim suspension of its obligation to implement LNP pending final decision pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80.

The Commission has jurisdiction in this matter pursuant to SDCL 49-31-80, Section 251(f)(2) of the Telecommunications Act of 1996, 47 U.S.C. Section 251(f)(2), and ARSD 20:10:32:39.

**Procedural Schedule**

The due dates for pre-filing of testimony are as follows (all dates 2004):

May 14	Petitioner's direct testimony and exhibits
May 28	Intervenors' and Staff's reply testimony and exhibits
June 14	Petitioner's rebuttal testimony and exhibits

The schedule for discovery is as follows (all dates 2004):

April 28	General interrogatories, document requests and other general discovery requests by all parties
May 11	Responses to general discovery requests by all parties
May 18	Supplemental discovery requests by intervenors and Staff following Petitioner's pre-filed testimony
May 24	Petitioner's responses to supplemental discovery requests
June 3	Supplemental discovery requests by Petitioner following intervenors' and Staff's pre-filed testimony

June 10           Intervenors' and Staff's responses to Petitioner's supplemental discovery requests

## Judicial Notice

The Commission hereby gives notice pursuant to SDCL 1-26-19(3) that it intends to take judicial notice of the fact that Petitioner is a local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide. Any party objecting to this taking of judicial notice shall serve notice of such objection on the Commission and the parties prior to the hearing.

## Notice of Hearing

A hearing will be held beginning at 10:00 A.M. on June 21, 2004, and continuing at 9:00 A.M. on June 22 - 25 and on June 28 - July 2, 2004, in the Second Floor Conference Room of the Soldiers and Sailors War Memorial Building (across Capitol Avenue from the Capitol Building), Pierre, South Dakota, on this matter and the other pending dockets in which the petitioners have requested suspensions of LNP requirements. To the extent that the issues and the witnesses and documentary evidence are materially identical in more than one LNP suspension docket, the parties are encouraged to present such common evidence in a consolidated manner that will minimize repetition and opposing parties are encouraged to reasonably stipulate to such consolidated presentation of evidence. The hearing will commence on June 21, with consideration of Midcontinent Communications' Motion to Compel, Docket No. TC03-192. Following the hearing on this related docket, the remaining dockets will be heard in docket number order except to the extent that the parties otherwise agree or the Commission shall otherwise order, either prior to or during the hearing. Petition of Santel Communications Cooperative, Inc., Docket No. TC04-038, will be heard on July 1, 2004.

As provided in SDCL 49-31-80 and 47 U.S.C. Section 251(f)(2), the issues at the hearing will be:

- (i) whether and the extent to which the suspension of LNP requirements requested by Petitioner
  - (a) is necessary:
    - (1) To avoid a significant adverse economic impact on users of telecommunications services generally;
    - (2) To avoid imposing a requirement that is unduly economically burdensome;  
or
    - (3) To avoid imposing a requirement that is technically infeasible; and
  - (b) is consistent with the public interest, convenience, and necessity;
- (ii) if a suspension is found to be justified, what the duration of the suspension should be; and
- (iii) whether any other relief should be granted.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights will be forfeited if not exercised at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, the Final Decision may be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision. As a result of the hearing, the Commission may either grant or deny the request of Petitioner to suspend the requirement of 47 U.S.C Section 251(b)(2) that it provide local number portability to requesting carriers and, if so, for what duration and subject to what conditions. The Commission's Final Decision may be appealed to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that the parties shall comply with the procedural schedule and discovery schedule set forth above; and it is

FURTHER ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether Petitioner's request to suspend its local number portability obligations under 47 U.S.C Section 251(b)(2) should be granted and, if so, for what duration and whether other relief should be granted.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 4th day of May, 2004.

<p align="center"><b>CERTIFICATE OF SERVICE</b></p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: <u>Helaine Kolbo</u></p> <p>Date: <u>5/5/04</u></p> <p align="center">(OFFICIAL SEAL)</p>
--

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman

Gary Hanson  
GARY HANSON, Commissioner

James A. Burg  
JAMES A. BURG, Commissioner



South Dakota Telecommunications Association  
PO Box 57 ■ 320 East Capitol Avenue ■ Pierre, SD 57501  
605/224-7629 ■ Fax 605/224-1637 ■ sdtaonline.com

*Rural roots, global connections*

RECEIVED

MAY 14 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

May 14, 2004

Ms. Pamela Bonrud, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Ave.  
State Capitol Building  
Pierre, SD 57501

RE: Petitions for Suspension and/or Modification of LNP, Dockets TC04-025, 038, 044, 045, 046, 047, 048, 049, 050, 051, 052, 053, 054, 055, 056, 060, 061, 062, 077, 084, and TC04-085.

Dear Ms. Bonrud:

Enclosed you will find for filing in the above referenced Dockets, the prefiled Direct Testimony of witness Steven E. Watkins. This testimony is filed on behalf of SDTA and also is filed on behalf of each of the below listed rural local exchange carriers, as part of their prefiled testimony.

TC04-025 – Kennebec Telephone Company  
TC04-038 – Santel Communications Cooperative  
TC04-044 – Sioux Valley Telephone Company  
TC04-045 – Golden West Telecommunications Cooperative  
Vivian Telephone Company  
Kadoka Telephone Company  
TC04-046 - Armour Independent Telephone Company  
Bridgewater-Canistota Independent Telephone Company  
Union Telephone Company  
TC04-047 - Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 - Beresford Municipal Telephone Company  
TC04-049 - McCook Cooperative Telephone Company  
TC04-050 - Valley Telecommunications Cooperative Association, Inc.  
TC04-051 - City of Faith Telephone Company  
TC04-052 - Midstate Communications Inc.  
TC04-053 - Western Telephone Company  
TC04-054 - Interstate Telecommunications Cooperative  
TC04-055 - Alliance Communications Cooperative, Inc.  
Splitrock Properties, Inc.

TC04-056 - RC Communications, Inc.  
                  Roberts County Telephone Cooperative Association  
TC04-060 - Venture Communications Cooperative  
TC04-061 - West River Cooperative Telephone Company  
TC04-062 - Stockholm-Strandburg Telephone Company  
TC04-077 - James Valley Cooperative Telephone Company  
TC04-084 - Tri-County Telcom, Inc.  
TC04-085 - Cheyenne River Sioux Tribe Telephone Authority

You will also find enclosed a certificate of service verifying service of this document, by USPS, on counsel for the other intervening parties.

Thank you for your assistance in filing and distributing these documents.

Sincerely,

A handwritten signature in black ink, appearing to read "R. D. Coit", written over a horizontal line.

Richard D. Coit  
Executive Director and General Counsel  
SDTA

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**RECEIVED**

**MAY 14 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**IN THE MATTER OF THE PETITIONS            )  
FOR SUSPENSION OR MODIFICATION        )  
OF § 251(b)(2) OF THE COMMUNICATIONS   )  
COMMUNICATIONS ACT OF 1934            )  
AS AMENDED                                 )**

**DOCKETS:**

**TC04-025 – Kennebec Telephone Company  
TC04-038 – Santel Communications Cooperative  
TC04-044 – Sioux Valley Telephone Company  
TC04-045 – Golden West Telecommunications Cooperative  
            Vivian Telephone Company  
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TC04-084 - Tri-County Telcom, Inc.  
TC04-085 - Cheyenne River Sioux Tribe Telephone Authority**

**DIRECT TESTIMONY OF**

**STEVEN E. WATKINS**

**Submitted on behalf of above Rural Local Exchange Carriers and  
the South Dakota Telecommunications Association (May 14, 2004)**

1    **I.    INTRODUCTION**

2    **Q1:    Please state your name, business address and telephone number.**

3    **A:**                My name is Steven E. Watkins. My business address is 2120 L Street, N.W.,  
4                       Suite 520, Washington, D.C., 20037. My business phone number is (202) 296-9054.

5    **Q2:    What is your current position?**

6    **A:**                I am Special Telecommunications Management Consultant to the Washington, D.  
7                       C. law firm of Kraskin, Moorman & Cosson, LLC, which provides legal and consulting  
8                       services to telecommunications companies.

9    **Q3:    What are your duties and responsibilities at Kraskin, Moorman & Cosson, LLC?**

10   **A:**                I provide telecommunications management consulting services and regulatory  
11                       assistance to smaller local exchange carriers ("LECs") and other smaller firms providing  
12                       telecommunications and related services in more rural areas. My work involves assisting  
13                       client LECs and related entities in their analysis of regulatory requirements and industry  
14                       matters requiring specialty expertise; negotiating, arranging and administering connecting  
15                       carrier arrangements; and more recently assisting clients in complying with the rules and  
16                       regulations arising from the passage of the Telecommunications Act of 1996 (the "Act").

17                       On behalf of over one hundred and fifty (150) other smaller independent local exchange  
18                       carriers, I am involved in regulatory proceedings in several other states examining a large  
19                       number of issues with respect to the manner in which the Act should be implemented in  
20                       those states. Prior to joining Kraskin, Moorman & Cosson, I was the senior policy  
21                       analyst for the National Telephone Cooperative Association ("NTCA"), a trade  
22                       association whose membership consists of approximately 500 small and rural telephone



1 companies. While with NTCA, I was responsible for evaluating the then proposed  
2 Telecommunications Act, the implementation of the Act by the Federal Communications  
3 Commission (“FCC”) and was largely involved in the association's efforts with respect to  
4 the advocacy of provisions addressing the issues specifically related to rural companies  
5 and their customers.

6 **Q4: Have you prepared and attached further information regarding your background**  
7 **and experience?**

8 **A:** Yes, this information is included in Attachment A following my testimony.

9 **Q5: What is Local Number Portability?**

10 **A:** Local Number Portability (“LNP”) is defined in Section 153 of the Act as:

11  
12 The term “number portability” means the ability of users of telecommunications  
13 services to retain, at the same location, existing telecommunications numbers  
14 without impairment of quality, reliability, or convenience when switching from  
15 one telecommunications carrier to another.

16  
17 This type of number portability is referred to as “Service Provider Portability.”

18 **Q6: What is meant by intermodal porting?**

19 **A:** The term is meant to signify LNP where the number is ported from its prior use by  
20 a wireline telephone company in the provision of “plain old telephone service” (“POTS”)  
21 at a fixed location within a specific geographic area to use by a mobile customer of a  
22 wireless carrier in the provision of mobile service, and vice versa.

23 **Q7: What is meant by intramodal porting?**

1     **A:**             This term means LNP where a number is ported from wireline carrier to another,  
2             or where a number is ported from one wireless carrier to another, but not when a number  
3             is ported between two different types of carriers; *i.e.* wireline or wireless.

4     **Q8:   Is number porting a “function” or a “service?”**

5     **A:**             It relates to a functional capability of a carrier. It is the capability of a carrier to  
6             identify the carrier that is providing service to an end user with a specific number. When  
7             calls are placed to numbers that may have been ported (*i.e.*, the numbers may be used by  
8             more than one service provider to provide service to end users), number portability is the  
9             function of querying a database to determine the identity of the carrier that is serving the  
10            end user using the specific number in question. Once the identity of the carrier is  
11            determined using number portability hardware and software, a carrier must also determine  
12            how a call may and will be switched, routed, and completed. Therefore, number  
13            portability involves multiple functions – the identification of which carrier is serving the  
14            end user being called and the completion of the call.

15

16    **II.    PURPOSE OF THIS TESTIMONY**

17    **Q9:   On whose behalf are you testifying?**

18    **A:**             I am testifying on behalf of the rural local exchange carriers that are the  
19             petitioning parties in dockets captioned above (to be referred to as the “Petitioners”) and  
20             the South Dakota Telecommunications Association.

21    **Q10:  What is the purpose of your testimony?**

22    **A:**             My testimony addresses whether grant of the Petitions filed by the Petitioners  
23             seeking suspension of LNP requirements pursuant to Section 251(f)(2) of the

1 Communications Act of 1934, as amended (“Act”) is in the public interest and consistent  
2 with the criteria regarding economic burdens and feasibility.

3 Consistent with 47 U.S.C. § 251(f)(2)(A)(I), grant of the petitions is necessary to  
4 avoid a significant adverse economic impact on the end users of the Petitioners. As will  
5 be demonstrated, the cost to implement LNP in the rural exchanges of the Petitioners is  
6 significant and would lead to explicit surcharges and other potential rate increases to the  
7 rural users beyond that which would be balanced with any benefit to be derived by the  
8 small number, if any, of users that may actually seek to port their wireline service  
9 telephone numbers. Accordingly, suspension of the LNP requirements would avoid these  
10 burdens consistent with the public interest, convenience, and necessity. *See* 47 U.S.C. §  
11 251(f)(2)(B).

12 Consistent with 47 U.S.C. §§ 251(f)(2)(A)(ii) and (iii) of the Act, grant of the  
13 suspensions is also necessary to avoid the imposition of undue economic burdens and  
14 technically infeasible requirements on the petitioners. My testimony provides  
15 background information that sets forth the sequence of events and unresolved issues at  
16 the FCC regarding LNP. Given the specific network and operational characteristics of the  
17 Petitioners, the LNP requirement, if not suspended, would subject the Petitioners to  
18 adverse economic conditions, unnecessary economic burdens and harm, and potentially  
19 technically infeasible requirements. Accordingly, suspension of the LNP requirements  
20 would be consistent with the public interest, convenience, and necessity in that it would  
21 avoid unnecessary attempts to deploy LNP under conditions that would subject the  
22 Petitioners to undue economic burdens and uncertain and infeasible requirements. *See* 47  
23 U.S.C. § 251(f)(2)(B).

1           Therefore, the interests of all parties, including the Petitioners, their customers,  
2           and policymakers, would be better served by the grant of the suspension requests until  
3           such time as there is a balanced policy result consistent with the public interest. Under  
4           current conditions, there would be no such policy balance between the substantial costs  
5           that would be imposed on the public and the potential benefits of LNP in the rural areas  
6           of South Dakota. Suspension of the LNP requirements is also consistent with sound  
7           public policy because it would assure that the public interest would be examined properly  
8           only after all of the relevant implementation issues have been resolved.

9  
10   **III.   RELIEF REQUESTED**

11   **Q11: What relief is appropriate for the Petitioners?**

12   **A:**           The Commission should extend the current interim suspension of the LNP  
13           requirements for the Petitioners until the conditions confronting the Petitioners, as  
14           explained in this Testimony, have changed such that the per-line cost of LNP is more  
15           reasonable compared to whatever demand, if any, may exist. These factors should be  
16           reviewed in light of the criteria set forth in Section 251(b)(2) of the Act.

17           In any event, any consideration under the criteria of Section 251(b)(2) cannot  
18           occur until after the issues pending before the Courts and the FCC related to the apparent  
19           directives contained in the FCC's November 10, 2003 Order on LNP ("*Nov. 10 Order*")  
20           are fully resolved, including any further and final disposition of the remaining rulemaking  
21           issues and the resolution of the routing issues that the FCC explicitly has left to be  
22           resolved later.

23           Regardless of any future consideration, the Petitioners would need sufficient time

1 after the issues are resolved and circumstances may have changed to acquire and install  
2 the necessary hardware and software and to implement the necessary administrative  
3 processes and business relationships that would be necessary to commence LNP.

4 This relief would avoid the potential waste of resources in an attempt to  
5 implement what are currently a confusing, incomplete and inconsistent set of apparent  
6 requirements that cannot be implemented in any rational manner given the status of the  
7 Petitioners' and the wireless carriers' networks. Without suspension, the Petitioners  
8 would find themselves in the untenable position of attempting to implement some  
9 uncertain service and porting method that may require them to incur costs that may go  
10 unrecovered and may subject their subscribers to much higher basic rates. Moreover, as  
11 explained in this testimony, without suspension, customers may receive bills for calls that  
12 they do not expect; some calls may not be completed to their final destination; and there  
13 will be ensuing customer confusion.

1 **IV. BALANCING COSTS AND POTENTIAL BENEFITS WITH THE PUBLIC**  
2 **INTEREST**

3 **Q12: What should the “public interest” determination entail?**

4 **A:** The determination of the “public interest” should involve an evaluation of the  
5 costs of LNP implementation and operation compared to the benefits that LNP  
6 implementation would present for consumers.

7  
8 **A. THE COSTS OF LNP ARE SUBSTANTIAL.**

9 **Q13: Are the costs of LNP significant?**

10 **A:** Yes. There are significant costs associated with implementing LNP including the  
11 cost of upgrading switches, accessing the various LNP databases, modifying company  
12 processes and training company employees.

13 **Q14: Who would bear the cost of implementing LNP if the Petitioners were required to**  
14 **do so?**

15 **A:** The subscribers of the Petitioners will bear the costs of LNP either through an  
16 FCC allowed LNP surcharge or through general increases in basic rates. Petitioners may  
17 also be forced to bear some of the cost of implementing LNP to the extent that such cost  
18 may not be recovered from subscribers or other carriers.

19 **Q15: But, did not the FCC establish a cost recovery mechanism for the Petitioners?**

20 **A:** Yes, but that does not address the surcharge and cost recovery burden that would  
21 be placed on the rural users and does not address whether that result would be consistent  
22 with the public interest. These charges would be assessed to all of the Petitioners’ end

1 users regardless of whether any of these end users desire to port numbers to wireless  
2 carriers. The testimony and data provided in this proceeding regarding costs and the  
3 resulting rate implications supports the conclusion that the subscribers of the rural  
4 Petitioners would be shouldering significant rate increases to recover these costs,  
5 regardless of whether any or just a few customers actually port their numbers. This cost  
6 recovery burden would not be balanced with any possible public interest objective given  
7 the lack of demand for LNP and the surcharges that would be imposed to recover the  
8 substantial costs of LNP implementation.

9 **Q16: Are the surcharges and potential basic rate increases to recover the costs of LNP**  
10 **consistent with cost causer principles?**

11 **A:** No. There is an extreme irony here. The very few customers that may want to  
12 port their wireline number from Petitioners to another carrier's service, such as a wireless  
13 carrier's service, will no longer be customers of the Petitioners. The vast majority of  
14 Petitioners' end users that remain will shoulder the charges and costs to the benefit of  
15 only a handful of users that are no longer customers of the LEC. The vast majority of  
16 customers that do not want to port will be forced to foot the bill for the very few that do.

17 **Q17: Will the Petitioners be able to add new customers by porting wireless carriers'**  
18 **customers to the Petitioners' service?**

19 **A:** For the most part, no. The manner in which the FCC put in place intermodal  
20 porting, inconsistent with the reports from the industry workgroup that had been charged  
21 with examining the intermodal issues, means that there is an extreme disparity between  
22 wireline-to-wireless opportunities to port versus wireless-to-wireline. Therefore, for the  
23 most part, Petitioners will be able to lose customers if LNP is implemented, but will not

1 be able to get others back. The necessary methods and rules to allow wireless-to-wireline  
2 porting that would be competitively fair are the subject of a further rulemaking  
3 proceeding before the FCC with no apparent resolution of the geographic disparity issues  
4 that are at the root of the issues. See *Nov. 10 Order* at para. 41-44. In the meantime, a  
5 competitively unfair version of intermodal LNP is in place.

6  
7 **B. THERE IS A LACK OF DEMAND FOR PORTING.**

8 **Q18: Will consumers benefit from the implementation of LNP by Petitioners?**

9 **A:** Central to the evaluation of whether consumers will benefit from the  
10 implementation of LNP is the level of demand that exists for LNP in Petitioners' service  
11 areas. It is my understanding that the Petitioners have not received any inquiries or  
12 requests for LNP. In addition with respect to intermodal portability, in those areas where  
13 intermodal LNP has already been implemented, there appears to be very little demand  
14 from wireline customers to port their numbers to wireless carriers. Rather, the vast  
15 majority of wireless ports appear to be from one wireless carrier to another.

16 **Q19: Does the experience thus far with intermodal LNP have any bearing on the public**  
17 **interest evaluation?**

18 **A:** Yes. Based on readily available information, the demand for wireline-to-wireless  
19 porting for the non-rural, large local exchange carriers has been small. For example,  
20 according to a March 30, 2004 Press Release from the FCC, for the period between  
21 November 24, 2003 and March 25, 2004, there were 6,640 informal complaints received  
22 regarding wireless LNP. The FCC notes that "most of the complaints concern alleged  
23 delays in porting numbers from one wireless carrier to another" and that a "much smaller



1 number of complaints, estimated at just under ten percent of the total, involve alleged  
2 delays in porting numbers from wireline carriers to wireless carriers.” In any event, the  
3 small relative percentage of complaints is likely due to the small number of wireline-to-  
4 wireless ports. Neustar reports that 95% of wireless ports have been from one wireless  
5 carrier to another and only 5% of wireless ports were between wireline and wireless  
6 carriers. *See Communications Daily, NARUC Notebook, Vol. 24, No. 46, March 9, 2004*  
7 at p. 4.

8 Further, I can also report that the February 9, 2004 online edition of *RCR Wireless*  
9 *News* indicated that there had not been much demand for wireline-to-wireless porting as  
10 may have been initially anticipated. The online publication referenced a consumer survey  
11 report compiled by CFM Direct that found that very few telecommunications customers  
12 have switched their wireline phone numbers to wireless. The article quoted Barry  
13 Barnett, executive vice president of CFM Direct, as stating: “Phone portability should  
14 have enticed more landline users to switch to wireless, and although the data we have  
15 doesn’t look at pre-teens, the owners of landline phones are primarily adults. We don’t  
16 see adults making the shift.”

17 While these anecdotes are representative of the experience in the more urban, top  
18 100 MSAs, I would expect the interest in rural areas to be even less. Wireless service is  
19 less ubiquitous in rural areas, and landline users would be more reluctant to abandon  
20 dependable wireline service for a wireless service of less certainty. Generally, for  
21 obvious reasons, users do not abandon their wireline service, in any event, upon their first  
22 use of wireless service in rural areas.

23 Therefore, as a result of the very limited perceived demand for intermodal LNP

1 experienced to date, the significant and higher costs for the smaller carriers, let alone the  
2 technical and operational hurdles and unresolved issues, requiring the Petitioners to rush  
3 to support LNP for intermodal purposes at this point lacks a balanced public interest  
4 benefit. The public interest demands a balanced and thoughtful approach here, which the  
5 grant of the suspension request will allow.

6 **Q20: Can you explain why there is relatively little demand for intermodal LNP?**

7 **A:** Yes. In my opinion, the nature of wireless service in the rural areas of  
8 states like South Dakota is such that the public does not recognize wireless service as an  
9 absolute substitute for wireline service. The quality of service, dependability, and service  
10 record of wireline service makes it the reliable source that rural customers want and  
11 depend on as their fundamental service. On the other hand, as I expect the Commission is  
12 aware from its own experience here in South Dakota, wireless service is not as  
13 ubiquitous, lacks predictable capacity and quality of service, has a lower probability of  
14 call completion, and suffers from dropped calls. All of these factors mean that rural users  
15 who must depend on quality, reliable service due to their remote locations are not going  
16 to abandon their wireline service and convert to mobile service for actual use in their rural  
17 communities. Their demand for wireless service is more for its mobile capability, and  
18 this mobile capability is in addition to their fundamental need for a reliable wireline  
19 phone. For these reasons, mobile wireless service is a complementary service, not a  
20 replacement.

21 Therefore, while some customers may try wireless service, decide that it is  
22 dependable enough, and subsequently drop their wireline service, they do not do so in a  
23 single step, and do not do so with the need to port numbers. In other words, where a

1 customer drops wireline service, it does so without the need to port a number. More  
2 likely, the number of wireline subscribers that will drop wireline service in rural areas and  
3 replace it solely with wireless service would be expected to be very small.

4 My conclusions about lack of demand for wireline-wireless LNP are consistent  
5 with the FCC's own analysis and statements. In July 2003, the FCC concluded that even  
6 though there continues to be increased interest in wireless service:

7  
8 only a small percent of wireless customers use their wireless phones as their only  
9 phone, and that relatively few wireless customers have "cut the cord" in the sense  
10 of canceling their subscription to wireline telephone service.

11  
12 *Eighth Report*, In the Matter of Implementation of Section 6002(b) of the Omnibus  
13 Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market  
14 Conditions With Respect to Commercial Mobile Services, released July 14, 2003, at para.  
15 102.

16 Moreover, the FCC concluded in August 2003 that:

17  
18 . . . despite evidence demonstrating that narrowband local services are widely  
19 available through [Commercial Mobile Radio Service or "CMRS"] providers,  
20 wireless is not yet a suitable substitute for local circuit switching. In particular,  
21 only about three to five percent of CMRS subscribers use their service as a  
22 replacement for primary fixed voice wireline service . . . . Lastly, the record  
23 demonstrates that wireless CMRS connections in general do not yet equal

1 traditional landline facilities in their quality and their ability to handle data traffic.

2  
3 *See Report and Order and Order on Remand and Further Notice of Proposed*  
4 *Rulemaking*, Review of the Section 251 Unbundling Obligations of Incumbent Local  
5 Exchange Carriers; Implementation of the Local Competition Provisions of the  
6 Telecommunications Act of 1996; and Deployment of Wireline Service Offering  
7 Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98, and 98-147,  
8 FCC 03-36, released August 21, 2003, at para. 445.

9 Finally, consistent with these FCC findings, a 2004 Policy Bulletin of the Phoenix  
10 Center for Advanced Legal & Economic Public Policy Studies entitled “Fixed-Mobile  
11 ‘Intermodal’ Competition in Telecommunications: Fact or Fiction?” also comes to the  
12 same conclusions. *See* [www.phoenix-center.org/PolicyBulletin/PCPB10Final.doc](http://www.phoenix-center.org/PolicyBulletin/PCPB10Final.doc). While  
13 the fundamental discussion in the Policy Bulletin is related to the extent of competition  
14 with Bell Operating Companies, the bulletin concludes at p. 1 that wireline and wireless  
15 telephone services are not “close enough substitutes to be effective intermodal  
16 competitors” and at p. 2 that “even though there may be exceptions, consumers generally  
17 do not consider the two services as sufficiently good substitutes . . . .”

18 For all of these reasons, the complementary nature of wireless service means that  
19 very few, if any, wireline customers will want to take the single step, at the same time, of  
20 abandoning wireline service, porting their number to wireless, and take a chance that they  
21 will depend on wireless service. Accordingly, it is not in the public interest for society,  
22 and particularly the rural subscribers of the Petitioners, to incur the cost of implementing  
23 LNP and to divert the limited resources of the Petitioners which are already challenged by

1 their service to sparsely populated areas and relatively lower income customers, for such  
2 small, if any, demand and such a speculative and abstract objective.

3 **Q21: Do the benefits of LNP justify the cost in the cases before the Commission?**

4 **A:** No. Because the facts show that there is little or no demand for LNP, the  
5 significant costs of LNP cannot be justified.

6  
7 **V. OTHER UNRESOLVED IMPLEMENTATION ISSUES RELATED TO THE**  
8 **PUBLIC INTEREST EVALUATION.**

9 **Q22: Are there additional reasons why LNP is not in the public interest?**

10 **A:** Yes. There are other unresolved issues associated with the ultimate routing of  
11 calls to telephone numbers ported to wireless carriers that are relevant to the evaluation  
12 here. Moreover, in the *Nov. 10 Order*, the FCC asked for further comment on whether  
13 the porting interval should be reduced and on how to implement wireless to wireline  
14 LNP. The resolution of these issues is unknown, the manner in which each will be  
15 resolved will further affect the Petitioners and their end users and could require  
16 Petitioners to incur additional costs in connection with LNP. Accordingly, the resolution  
17 of these issues could further impact the LNP cost/benefit analysis.

18 **Q23: Did the FCC's *Nov. 10 Order* on intermodal number portability reconcile the facts of**  
19 **rural LECs with the requirement to provide intermodal LNP when there is no**  
20 **service arrangement with the wireless carrier "in the same location?"**

21 **A:** No. The FCC's *Nov. 10 Order* is, at best, incomplete in that it fails to address  
22 with clarity and completeness the fact that there may be no wireless carrier arrangements

1 in place “at the same location” (which is the situation confronting most of the  
2 Petitioners), the obvious “location portability” aspect of mobile service, or the remaining  
3 rate center disparity issues articulated by the industry workgroup discussed below. Many  
4 of the FCC’s statements in its recent orders on number portability with respect to service  
5 locations of wireline LECs, rate center areas, the geographic scope of the operations and  
6 service offerings of wireless carriers, and mobile users are inexplicably inconsistent with  
7 the facts confronting the Petitioners, previous FCC conclusions, and existing regulation.

8  
9 **A. ROUTING ISSUES**

10 **Q24: Do the unresolved and uncertain aspects of the intermodal number portability**  
11 **requirements cause real world implementation consequences for the Petitioners?**

12 **A:** Yes. The *Nov. 10 Order* does not automatically create service arrangements  
13 between the Petitioners and the wireless carriers. The *Nov. 10 Order* does not clearly  
14 answer questions about the manner in which calls to ported numbers of mobile users will  
15 be treated from a service definition basis, how such calls will be transported to locations  
16 beyond the LECs’ service territories, and over what facilities these calls will be routed.

17 **Q25: What are the so-called “routing” issues?**

18 **A:** Foremost, the wireless carrier to which the number may be ported may not have  
19 any existing service arrangements with the wireline LEC in the specific geographic area  
20 where the wireline LEC provides service using that number (*i.e.*, in the geographic area  
21 that constitutes “the same location”). Accordingly, even if the carriers knew that the  
22 number had been ported to a wireless or wireline carrier providing service in another  
23 location, there would not be any trunking arrangement in place (other than handing off

1 the calls to interexchange carriers) to complete the call. No LEC, including the  
2 Petitioners, has network arrangements for the delivery of local exchange service calls to,  
3 and the exchange of telecommunications with, carriers that operate at distant locations  
4 beyond the LEC's actual service area in which local exchange service calls originate, and  
5 there is no requirement for LECs to establish such extraordinary arrangements. LECs  
6 have no obligation to provide at the request of a wireless carrier, at additional cost and  
7 expense to the LEC, some extraordinary form of local exchange service calling beyond  
8 that which the LEC provides for any other local exchange service call.

9 **Q26: Would you provide an explanation of some of the uncertain aspects of the FCC's**  
10 ***Nov. 10 Order* with respect to so-called "routing" issues?**

11 **A:** The *Nov. 10 Order* neglects to address specific operational and network  
12 characteristics of the smaller LECs such as the Petitioners. In this regard, I note the  
13 statement of the FCC in a subsequent November 20, 2003 Order on number portability  
14 denying a petition challenging the decision:

15  
16 . . . [P]etitioners assert that there is no established method for routing and billing  
17 calls ported outside of the local exchange. We note that today, in the absence of  
18 wireline-to-wireless LNP, calls are routed outside of local exchanges and routed  
19 and billed correctly.

20  
21 What the FCC fails to understand in this statement is that calls routed outside of the  
22 Petitioners' local exchanges are routed to interexchange carriers (IXCs). Therefore, they  
23 are routed and billed correctly as interexchange calls. The Petitioners do not have any

1 obligation to provision local exchange carrier services that involve transport  
2 responsibility or network functions beyond their own networks or beyond their incumbent  
3 LEC service areas. Consequently, if the FCC means to presume that calls outside of the  
4 local exchanges are routed and billed correctly as local calls, the FCC's statement  
5 contained in the second sentence is simply not correct.

6 Furthermore, it is well settled that LECs' interconnection obligations only pertain  
7 to their own networks, not to other carriers' networks or to networks in areas beyond their  
8 own LEC service areas. While the FCC has generally acknowledged a limitation on a  
9 Bell company to route calls no further than to a LATA boundary, the FCC's *Nov. 10*  
10 *Order* apparently failed also to recognize that the Petitioners are physically and  
11 technically limited to transporting traffic to points of interconnection on their existing  
12 network that are no further than their existing service territory boundaries. It is my  
13 understanding that some companies may have extended their access facilities outside their  
14 local networks to provide centralized access services, but these circumstances are  
15 exceptional and, in any event, the LECs are compensated for their provision of access  
16 services to other carriers. For the Petitioners, telecommunications services provided to  
17 end users that involve transport responsibility to interconnection points with other  
18 carriers' networks at points beyond a Petitioner's limited service area and network  
19 generally are provided by IXC's, not by the Petitioner LECs. The involvement of the  
20 Petitioners in such calls is limited to the provision of network functions within their own  
21 networks. As such, for calls destined to points "outside of the local exchange," the IXC  
22 chosen by the end user is responsible for the transport and network functions for the  
23 transmission of the call beyond the Petitioner's network. Accordingly, calls destined to



1 interconnection points beyond the local exchange and service area of a Petitioner are both  
2 “routed” and “rated” by the customer’s chosen IXC.

3 The wireline LEC that may originate calls to a number that has been ported to a  
4 wireless carrier cannot unilaterally provision local calling to this number where there are  
5 no arrangements established with the wireless carrier. Just as the introduction of an EAS  
6 route involves the establishment of interconnection and network and business  
7 arrangements between two carriers, the ability to exchange local exchange service calls  
8 with a wireless carrier also necessitates interconnection and the establishment of the  
9 necessary terms and conditions under which traffic may be exchanged. Interconnection  
10 occurs as the result of a request and the mutual development of terms and conditions  
11 between the carriers for such interconnection. Just as the establishment of an EAS route  
12 does not occur in the absence of negotiation and agreement regarding the network  
13 arrangements and the exchange of traffic, interconnection with a wireless carrier is not a  
14 spontaneous event. The mere deployment of a NPA-NXX, the association of a rate  
15 center point with a specific NPA-NXX, and/or the porting of a wireline telephone number  
16 to a wireless carrier does not automatically establish interconnection or any expectation  
17 that calls can or will be originated as a “local exchange service” call or that calls can be  
18 completed on such basis.

19 **Q27: Do the Petitioners typically have in place direct interconnection arrangements or**  
20 **other service arrangements with all potential wireless carriers that could port**  
21 **numbers?**

22 **A:** No. This is in contrast to Bell companies which typically do have some form of  
23 interconnection and physical trunking arrangements in place with most, if not all, of the

1 wireless carriers that will seek number portability. Quite possibly that would explain  
2 some of the incorrect assumptions which are the apparent basis for some of the FCC's  
3 statements in its *Nov. 10 Order*. These assumptions are apparently the result of assuming  
4 that the experience and operations of the Petitioners are comparable to that of Bell  
5 companies.

6 **Q28: What will be the consequences when a wireline number is ported to a wireless**  
7 **carrier that has no direct interconnection arrangement or other service**  
8 **arrangement in place with the wireline LEC?**

9 **A:** The unresolved issues and the fact that no service arrangement may exist with the  
10 wireless carrier means that there will be carrier and customer confusion. Where there is  
11 no service arrangement between a Petitioner and the wireless carrier to which a number  
12 may have been ported, there will be no trunk over which the LEC could direct local  
13 exchange service calls to the wireless carrier if that is the service that the LEC seeks to  
14 provide to its wireline customers. The Petitioners have only one available option for the  
15 completion of such calls. In such instances, the caller attempting to place a call would  
16 receive a message with the instructions that the call cannot be completed as dialed and  
17 must be completed using an interexchange carrier by dialing 1 plus the 10-digit number.  
18 If the customer dials the ported number in this manner, the LEC would hand such call off  
19 to the interexchange carrier chosen by the originating user, the service is provided by the  
20 interexchange carrier, the routing of the call would be determined by the interexchange  
21 carrier, and the end user would be assessed a toll charge by that interexchange carrier.

22 **Q29: Did the FCC say anything else concerning the routing of calls to wireless carriers in**  
23 **the Nov. 10 Order?**

1     **A:**             Yes. The FCC stated that the routing of calls between wireline and wireless  
2             carriers did not need to be resolved in the LNP docket and, instead, it would be addressed  
3             in the context of a Declaratory Ruling request filed by Sprint still pending before the  
4             FCC.

5  
6             . . . We make no determination, however, with respect to the routing of ported  
7             numbers . . . . [T]he rating and routing issues raised by the rural wireline  
8             carriers have been raised in the context of non-porting numbers and are before the  
9             [FCC] in other proceedings. Therefore, without prejudging the outcome of any  
10            other proceeding, we decline to address these issues at this time as they relate to  
11            intermodal LNP.

12  
13           *Nov. 10 Order*, para. 40, footnotes omitted.

14  
15           **B.     OTHER UNRESOLVED AND UNEXPLAINED ISSUES**

16     **Q30: Why is it necessary to discuss the background and sequence of events leading to the**  
17           **FCC's *Nov. 10 Order*?**

18     **A:**             As I will explain below, the apparent directives in the FCC's *Nov. 10 Order* have  
19             not been logically explained, are not consistent with the FCC's own conclusions and  
20             procedural approach, and leave implementation issues unresolved for the Petitioners. The  
21             conclusions to be drawn from the FCC's *Nov. 10 Order* are still not clear.

1                   **1.     BACKGROUND: NUMBER PORTABILITY CONCEPTS**

2   **Q31: Are there other “types” of number portability other than Service Provider**  
3   **Portability that you discussed earlier in this testimony?**

4   **A:**           Conceptually, yes. The FCC has defined a type of number portability called  
5           “Location Number Portability.” As explained earlier in this Testimony, Service Provider  
6           Portability is the ability of users of telecommunications services to retain, at the same  
7           location, existing telecommunications numbers when switching from one local service  
8           provider to another. In contrast, Location Number Portability is the ability of a  
9           telecommunications service user to retain her or his same telephone number when  
10          moving from one physical location to another.

11 **Q32: Is Location Number Portability part of the definition of the Act?**

12 **A:**           As reflected above, the Act defines “number portability” as the ability for  
13          customers to retain, at the same location, their existing numbers when switching carriers.  
14          The definition contained in the Act is consistent with only the Service Provider Number  
15          Portability definition that the FCC has adopted.

16 **Q33: Has the FCC adopted requirements for Location Portability?**

17 **A:**           No. Location Number Portability involves geographic and other implementation  
18          issues that go beyond those associated with Service Provider Number Portability. With  
19          location portability, there is no longer a relationship between the NPA-NXX of the  
20          telephone number and the geographic area in which an end user obtains service using that  
21          telephone number. Because carriers’ services are based on specific geographic areas and  
22          because carriers currently provision service and switch calls based on NPA-NXXs, the  
23          “porting” of a number within a particular NPA-NXX to a different geographic area means

1 that carriers are unable, with current technology, to determine the proper service  
2 treatment of calls.

3  
4 **2. SERVICE “AT THE SAME LOCATION” ISSUES**

5 **Q34: Can you provide an example of the inability to determine the service treatment of**  
6 **calls?**

7 A: Yes. For example, under current technical capabilities, a carrier would not know  
8 whether a call to a location ported number is to a location that is included within the local  
9 calling area services offered by the LEC to its end users (such as the local exchange and  
10 Extended Area Service (“EAS”) arrangements) or whether the call is to a distant location  
11 that would be an interexchange call subject to provision by the end user’s preferred  
12 interexchange carrier (“IXC”). In the former example, if the call would be between two  
13 end users physically located within the local calling area, the call is treated as a local  
14 exchange service call. In the latter example of a toll call originated in one of the  
15 Petitioners’ service areas, the call is subject to equal access treatment (*i.e.*, the call is  
16 routed to the end user’s presubscribed long distance carrier) and is subject to the terms of  
17 either intrastate or interstate access tariffs, and the rate for the call is determined by the  
18 end user’s chosen IXC. However, because of the real-world, real-time incapability to  
19 know the locations of the two end users involved in the call, implementing any form of  
20 Location Number Portability would wreak havoc on the telephone companies and the end  
21 users they serve unless and until some new and costly network capability could be  
22 developed to determine the location of end users on a real-time basis. Absent this real-  
23 time capability, end users would not be able to know what charges they are incurring and

1 the LECs would not know how to recover their costs related to the call. It is for all of  
2 these reasons the FCC has not required that LECs implement Location Number  
3 Portability at this time.

4 **Q35: Did the FCC conclude that porting numbers from wireline carriers to wireless**  
5 **carriers for use on a mobile basis across the country constitutes location portability?**

6 **A:** No. But the FCC did not explain the illogical consequences of that apparent  
7 conclusion, and those aspects of its orders are the reason why the entire industry has been  
8 left to “scratch its head” with regard to the meaning to attach to the FCC’s statements.  
9 The FCC simply stated its conclusion that porting numbers to a wireless carrier which  
10 allows the wireless carrier to provide service on a mobile basis to customers that move  
11 across the country does not mean that the service is provided beyond “the same location”  
12 and therefore does not, in the FCC’s view, constitute location portability. However, the  
13 FCC failed to explain rationally how the porting of a telephone number for use by a  
14 mobile wireless service user constitutes retention of its use “at the same location.” In any  
15 event, the statement about location portability cannot be reconciled with the facts, and the  
16 FCC did not provide the necessary guidance as to how to reconcile this illogical statement  
17 with the current network realities. When a number is ported for mobile wireless carrier  
18 use, not only will a wireless carrier use that number to provide service to a mobile user  
19 “moving from one physical location to another” -- the exact definition that the FCC  
20 prescribed for the concept of location portability -- but more problematic is that, for the  
21 Petitioners, the number could be ported to a wireless carrier that does not have any  
22 service presence or any interconnection arrangement in the local exchange area associated  
23 with the NPA-NXX number prior to its being ported.

1           As is obvious, the FCC's unsubstantiated statement is contrary, without sufficient  
2 explanation, to the plain language of the Act, and leaves open the unreasonable  
3 possibilities that (1) a number may be ported to a wireless carrier that has no presence,  
4 whatsoever, in the area that constitutes "at the same location;" (2) the wireless carrier can  
5 now port that number for use at many different locations, perhaps across the entire nation,  
6 well beyond the "same service location;" and (3) the wireline LECs operating in "the  
7 same location" have no arrangement, whatsoever, with the wireless carrier to which the  
8 number has been ported in that "same location." Accordingly, the FCC's orders  
9 completely neglect, without sufficient explanation, these circumstances and facts that  
10 render the concept "at the same location" meaningless and the conclusions in the *Nov. 10*  
11 *Order* illogical.

12 **Q36: Are there any issues that arise as a result of wireless carriers using the ported**  
13 **number on a mobile basis?**

14 **A:**           Yes. Despite the simple and unexplained statement by the FCC to the contrary, a  
15 telephone number currently used by a wireline end user at a fixed location that is  
16 subsequently ported to a wireless carrier to be used on a mobile basis automatically  
17 involves the use of that telephone number when moving from one physical location to  
18 another (unless the wireless user intends to fix the location of her or his wireless phone).  
19           The mobile user may not only use the number when moving from one location to another  
20 within the original exchange area, but likely will use the number in a much wider  
21 geographic area including, for most wireless carriers, the ability to place and receive calls  
22 at locations throughout the entire country. Furthermore, the wireless user may  
23 subsequently take his or her wireless phone and move to another state and use that

1 telephone number on a full time basis in that other state. As such, the porting of  
2 telephone numbers from wireline use to wireless mobile use automatically presents both  
3 location portability and service provider portability issues. In the reverse, a mobile user  
4 with a telephone number associated with a rate center area in another state (or at some  
5 distance away from the wireline LEC but within the same state) can nevertheless use his  
6 or her mobile phone in the wireline LEC's local rate center area, but the LEC cannot port  
7 that number from the wireless carrier to the wireline LEC's use. This is the disparate  
8 competitive situation that the FCC's illogical requirements present which is also the  
9 reason why the industry group charged with studying and making recommendations about  
10 intermodal porting has never recommended that it be adopted specifically because of this  
11 geographic disparity issue.

12  
13 **3. THERE HAS BEEN NO RECOMMENDATION FOR**  
14 **INTERMODAL LNP.**

15 **Q37: Prior to the FCC's *Nov. 10 Order*, were the obligations of the Petitioners clear with**  
16 **respect to intermodal porting of a number to a wireless carrier?**

17 **A:** No. The rulemaking process that the FCC put in place to resolve the issues  
18 associated with the disparity in geographic service areas between wireline and wireless  
19 carriers that arise under intermodal porting is still open and the issues are still unresolved.  
20 There had been no recommendation or proposal as to how to resolve all of the  
21 geographic disparity issues associated with intermodal porting.

22 **Q38: What is the rulemaking process that the FCC announced that it would use to**  
23 **examine and adopt rules for wireline-wireless number portability?**



1    **A:**           The FCC recognized in its July 2, 1996 number portability decision that there are  
2           complex definition and implementation issues with respect to wireline-wireless number  
3           portability as compared to wireline-wireline number portability. These complex issues  
4           arose because of the fundamental geographic differences between mobile wireless service  
5           areas and wireline service areas. Accordingly, the FCC did not adopt requirements for  
6           wireless-wireline number portability at the same time as it adopted the initial rules for  
7           wireline-wireline number portability. Instead, in its August 18, 1997 decision, the FCC  
8           decided that it would assign the more difficult wireless-wireline issues to an expert  
9           industry workgroup (the North American Numbering Council or “NANC”) with the  
10          intent that the workgroup would study these issues, develop consensus on solutions, and  
11          then make “recommendations” to the FCC as to how to resolve the outstanding issues.  
12          The FCC’s process, then, involves the development of recommendations by the NANC,  
13          followed by FCC notice of such recommendations, and the allowance of sufficient time  
14          and opportunity for the industry to study the recommendations and comment prior to any  
15          such recommendations becoming a regulatory rule.

16   **Q39: Did the FCC alter this process in its Nov. 10 Order?**

17   **A:**           No.

18   **Q40: Has there been a recommendation from the industry expert workgroup regarding**  
19       **porting between wireless carriers and wireline carriers?**

20   **A:**           No, and that is at the heart of the problem here. There has been no explicit  
21          recommendation from the industry workgroup that states the manner in which the  
22          geographic disparity issues arising from intermodal porting would be solved. There have  
23          been reports which attempt to explain the unresolved geographic disparity issues related

1 to porting between wireless and wireline carriers. For example, the NANC reported in  
2 both 1999 and 2000, the last two reports that I am aware of on these issues, that the  
3 industry could not reach consensus on a resolution of the rate center area disparity issues,  
4 and no recommendation on intermodal porting was offered. Nowhere can one find an  
5 explicit and complete recommendation as to how the industry group proposed to solve all  
6 of the disparate geographic, definition, and operational issues necessary to implement  
7 wireline-wireless number portability consistent with the statutory requirements.

8 To add further confusion and uncertainty to this process, the geographic disparity  
9 issues were originally related to Location Number Portability, not Service Provider  
10 Number Portability. Based on my review of the reports, it appears that early in their  
11 deliberations the industry workgroup concluded that if and when Location Number  
12 Portability is implemented, the location porting of a number must nevertheless be limited  
13 to service within the same rate center. This condition of confining portability to the same  
14 rate center area was relevant solely to Location Number Portability, not Service Provider  
15 Number Portability. However, the rate center area disparity issue has been inexplicably  
16 confused, and the condition of confinement of portability to the same rate center area  
17 somehow, over time and without clear explanation, apparently became part of the Service  
18 Provider Number Portability considerations, despite the fact that this form of portability is  
19 already defined by statute to be "at the same location."

20 **Q41: Based on your understanding of the NANC recommendations made to date, is there**  
21 **one that you can point to that resolves the issues that you have identified regarding**  
22 **intermodal porting?**

23 **A:** No. Regardless of the confusing course, one cannot find a clear recommendation

1 from the NANC as to how to reconcile these outstanding intermodal porting issues  
2 (whether for location or service provider portability), much less any document or  
3 proposals that constitutes a clear proposal for comment. The facts are: (1) the disparity in  
4 the geographic aspects of wireline and wireless service still remain; (2) when a number is  
5 ported to a mobile user, the wireless carrier that is the new service provider may not have  
6 any intercarrier network interconnection or service arrangements in place in the original  
7 rate center area; (3) the mobile user will most certainly use that number when moving  
8 from one location to another; and (4) in all likelihood, the mobile user will use that  
9 telephone number in a different rate center than the rate center with which it was  
10 originally associated. “At the same location” has been rendered meaningless without  
11 proper explanation.

12 **Q42: What conclusions can you draw as a result of this sequence of events?**

13 **A:** The Petitioners had no reason to expect that intermodal number portability,  
14 inconsistent with the general understanding of the statute, existing regulation, and the  
15 status of industry workgroup efforts, was yet required.

16 **Q43: What has been the response of the LEC industry to the FCC’s action?**

17 **A:** It is not surprising that the industry has responded with Court action challenging  
18 the *Nov. 10 Order*.

19 **Q44: What is the status of these proceedings?**

20 **A:** All of these matters await substantive action.

21 **Q45: Why are all of these uncertainties relevant to the instant requests for suspension?**

22 **A:** Because the uncertainties raise the distinct specter that the Petitioners will be  
23 making human and economic investments and expending real work resources all in an

1 effort to make a good faith effort to implement LNP when their requirements are unclear.

2 Magnifying this problem, my understanding is that no, or very few, wireline customers of  
3 the Petitioners have requested to port a number for wireless use. The real world concern  
4 is that these costs could be incurred and would be reflected in end user rates without any  
5 real purpose or potential benefit that would be afforded to customers. Moreover, after  
6 these issues are resolved, Petitioners may find that they would be required to modify their  
7 previous implementation activity at additional cost.

8 The requested relief would preclude the potential waste of resources in an attempt  
9 to implement what are currently a confusing, incomplete and inconsistent set of apparent  
10 requirements. As such, the requested relief is fully consistent with the public interest and  
11 would recognize the infeasibility of the Petitioners moving forward with efforts based on  
12 unknown and ambiguous FCC directives. The requested action would also avoid the  
13 significant adverse economic impact on the Petitioners' end users and undue economic  
14 burden that will result from an attempt to comply under these uncertain conditions.

15 Without suspension, the Petitioners would find themselves in the untenable  
16 position of attempting to implement some way in which numbers would be ported to  
17 wireless carriers. However, in such case, as explained in this testimony, some calls may  
18 not be completed to their final destination, there will be ensuing customer confusion,  
19 customers may receive bills for calls that they do not expect, and the Petitioners will incur  
20 costs that may go unrecovered.

1                   **4. LACK OF ANY LOGICAL APPLICATION OF THE “RATE CENTER**  
2                   **AREA” CONCEPT TO MOBILE USERS.**

3   **Q46: Do you agree that it appears that much of the discussion and apparent directives of**  
4       **the FCC depend on so-called rate center areas?**

5   **A:**               Yes.

6   **Q47: What is a rate center area?**

7   **A:**               A rate center area is a specific geographic area. Telephone number codes (NPA-  
8       NXXs) are assigned and associated with rate center areas with the assumption that these  
9       numbers will be used to provide service exclusively within that rate center area (except in  
10      the case of wireless carrier mobile users). However, the fact that wireless carriers may  
11      not use the NPA-NXX to provide mobile service to the end user in the same rate center  
12      area with which the NPA-NXX is associated for wireline service (and similarly a wireless  
13      carrier may use a specific NPA-NXX associated with one specific rate center area to  
14      provide mobile service in a different wireline rate center area) is at the crux of the  
15      geographical rate center area disparity issue between wireless carriers and wireline  
16      carriers that has not been resolved.

17                   Within a rate center area, there is a designated rate center point (vertical and  
18                   horizontal coordinates) that carriers may use to calculate airline miles between any two  
19                   rate center points. The rate center point is a geographic point that is intended to be the  
20                   representative point for the entire rate center area for purposes of mileage calculation.

21                   The concept of “rate center areas” was developed originally for purposes of  
22                   calculating charges for interexchange services where the rates were based on mileage.  
23                   Almost no calling services today depend on mileage. Some carriers’ billing and service

1 administrative processes depend on industry databases (the “Local Exchange Routing  
2 Guide” or “LERG”) that associate NPA-NXX telephone numbers with specific rate center  
3 areas. However, many small LECs have no need for such reliance and do not necessarily  
4 utilize such database tools because they provision their own local exchange carrier  
5 services on an individual case basis, based on specific geographic areas included within  
6 their local calling area and the establishment of unique physical trunking between those  
7 geographic areas.

8 To add to the confusion, the FCC has attempted to extend the use of the word  
9 “rate” (with respect to a call) beyond its original meaning, apparently now to mean the  
10 determination by a LEC of whether a call is within the definition of what the LEC offers  
11 and provides as local exchange service, or whether the call is not. The determination of  
12 whether a call, when dialed, is a local exchange service call or an interexchange service  
13 call is simply a service definition determination, not rating. As explained in this  
14 testimony, the determination of whether a call is a local exchange service call or an  
15 interexchange service call is based on the location of the calling and called parties. Under  
16 the traditional use of the word, the Petitioners do not generally “rate” local exchange  
17 service calls, at all. These calls are part of an unlimited service for which no “rating” is  
18 necessary or applied. Rating was originally a concept relevant only to interexchange  
19 services, and the rate center points (V&H) were used to determine the “rate” for the call.  
20 But interexchange services are no longer rated based on mileage, the only “rating” that  
21 takes place for interexchange service calls is in the determination of whether the  
22 interexchange service call is intrastate or interstate in nature, based on the V&H  
23 coordinates of the called and calling parties, and the duration of the call.

1 **Q48: Are LECs required to rely on rate center information of other carriers contained in**  
2 **industry databases in their provisioning of intrastate local exchange carrier**  
3 **services?**

4 **A:** No. I am aware of no federal regulatory requirement which requires LECs,  
5 including the Petitioners, to utilize LERG data that associates a specific NPA-NXX with  
6 a specific rate center area as the sole means to determine the scope of local exchange  
7 services to be offered to their own customers. Of particular note, as explained below,  
8 even the FCC has concluded that this information is generally meaningless with respect to  
9 mobile wireless service. The industry's NPA-NXX assignment guidelines, endorsed by  
10 the FCC, which include the administrative processes for the association of a rate center  
11 area with an NPA-NXX code, also recognize that not all carriers utilize this information  
12 for the definition and billing of services. Many small LECs do not depend solely, nor are  
13 they required to do so, on the unsupervised information that other carriers submit for  
14 inclusion in the industry database as the means to provision their local exchange services.  
15 These LECs may, however, refer to this information as a tool to identify other carriers  
16 and their apparent operations.

17 In summary, I am unaware of any federal regulatory requirement that carriers must  
18 determine the jurisdiction of a call, or must provision specific local exchange carrier  
19 services, based on rate center points that other carriers associate with NPA-NXXs. In  
20 fact, the FCC has concluded previously that the telephone number does not determine the  
21 jurisdiction of a call when the calling and called parties' locations do not relate to the  
22 geographic area associated with the NPA-NXX. The FCC has used the example of  
23 callers in the multi-state area surrounding the District of Columbia to illustrate this fact.

1 Because wireless carrier mobile users often cross state lines and are mobile, a cellular  
2 customer with a telephone number associated with Richmond, Virginia may travel to  
3 Baltimore, Maryland. A call between the mobile user in Baltimore and, for example, a  
4 wireline end user in Alexandria, Virginia might appear to be an intrastate call “placed  
5 from a Virginia telephone number to another Virginia telephone number, but would in  
6 fact be interstate . . . .” 11 FCC Rcd 5020, 5073, *In the Matter of Interconnection*  
7 *Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, and*  
8 *Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio*  
9 *Service Providers*, CC Docket Nos. 95-185 and 94-54, (1996) at para. 112, underlining  
10 added. Similarly, while a call between a wireline end user in Richmond to the mobile  
11 user in Baltimore might also appear to be an intrastate call because the call is placed from  
12 a Virginia telephone number to another number that also appears to be associated with  
13 Virginia, but this call would also in fact be an interstate call. When one end of the call is  
14 in Maryland and the other is in Virginia, the call is interstate. The telephone numbers  
15 assigned to the users do not determine the jurisdiction.

16 **Q49: Does the concept of a rate center area and its association with an NPA-NXX make**  
17 **sense with respect to telephone numbers assigned to mobile users of wireless**  
18 **carriers?**

19 **A:** No. It is nonsensical to associate a specific geographic area to a user that, by  
20 definition, is expected to be, and most likely will be, mobile across large areas, including  
21 potentially across the entire nation. The telephone number does not determine the  
22 location of the mobile user. For jurisdictional determinations, the actual physical  
23 location of the mobile user determines whether a call is intrastate or interstate. For



1 interconnection purposes, *i.e.* to determine whether a call is within a Major Trading Area  
2 (“MTA”) or between two MTAs (*i.e.*, intraMTA or interMTA), the location of the cell  
3 site serving the mobile user at the beginning of the call is used as the surrogate for the  
4 actual geographic service location of the mobile user, not the telephone number. I am not  
5 aware of any FCC regulation that requires that the location of a mobile user be based on  
6 the telephone number or NPA-NXX used by that mobile user.

7 **Q50: Do others share your views about the lack of any geographic relationship between**  
8 **rate center areas and mobile users?**

9 **A:** Yes. My views are exactly consistent with the FCC’s conclusions. In its October  
10 7, 2003 number portability order related to wireless-wireless porting, the FCC concluded  
11 (at para. 22) that “[b]ecause wireless service is *spectrum-based and mobile in nature*,  
12 *wireless carriers do not utilize or depend on the wireline rate center structure to provide*  
13 *service*: wireless licensing and service areas are typically much larger than wireline rate  
14 center boundaries, and wireless carriers typically charge their subscribers based on  
15 minutes of use rather than location or distance.” (emphasis added). The FCC’s  
16 conclusion confirms that the specific geographic areas known as rate center areas for  
17 wireline LECs have no relevance to the services offered to, or provided to, the typical  
18 mobile user of the large wireless carriers.

19 **Q51: You discuss intermodal LNP at great lengths. Does that mean that there are no**  
20 **obstacles or burdens associated with intramodal LNP?**

21 **A:** No. For most small and rural LECs, it is intermodal porting brought on by the  
22 FCC’s *Nov. 10 Order* that has precipitated the need for the suspension request by the  
23 Petitioners. However, implementing LNP for intramodal porting would present similar

1 cost burdens and potential imbalance between benefits and costs with similar public  
2 interest implications. Furthermore, there are still those unresolved issues yet to be  
3 decided such as the porting interval that would impact implementation of intramodal  
4 porting the same as for intermodal porting.

5  
6 **V. CONCLUSION**

7 **Q52: What conclusions do you draw from your discussion of LNP?**

8 **A:** Even if the unexplained and uncertain issues discussed in this Testimony were to  
9 be resolved properly, the costs of implementing LNP in the rural Petitioners' exchanges  
10 would unjustly burden the rural customers with higher rates to support a capability that  
11 would benefit only a few, if any, customers that may want to port their number. Further,  
12 with respect to wireless LNP, the evidence is that there would be little, if any, demand by  
13 rural customers to abandon wireline service and completely substitute wireless service.  
14 The costs to deploy number portability are significant and would burden unnecessarily the  
15 customers of the Petitioners without any clear or balanced public interest benefit. Given  
16 these circumstances, the Petitioners should not be forced to incur substantial costs, to  
17 redirect their limited resources into otherwise unnecessary or misguided efforts in an  
18 attempt to comply with a confusing and incomplete set of apparent requirements, and  
19 burden their rural users with rate increases for only speculative, if any, benefits. Such a  
20 result would not be consistent with the public interest.

21 With respect to the incomplete and unexplained aspects of the FCC's *Nov. 10*  
22 *Order*, the Petitioners are placed in an untenable position – although carriers are required  
23 to implement LNP if there is a request, the implementation requirements are incomplete

1 and subject to change and. Further, with respect to intermodal LNP, the implementation  
2 requirements (a) have not been properly established or logically explained; (b) are based  
3 on assumptions that are inconsistent with the experience and operations of the Petitioners;  
4 and/or (c) are inconsistent with the facts and existing regulations. Accordingly, these  
5 shortcomings make the fulfillment of intermodal LNP infeasible and unduly economically  
6 burdensome under uncertain terms. The Petitioners continue to have concerns about the  
7 routing and completion of calls to intermodal ported numbers, the resulting confusion on  
8 the part of customers about how to complete calls and the charges for such calls, and the  
9 ensuing customer dissatisfaction with the Petitioners, as well as with federal and state  
10 regulators, created by this state of uncertainty. Any attempt to implement LNP under  
11 these circumstances would result in the imposition of undue economic burdens on the  
12 Petitioners and their customers -- a result not consistent with the public interest.

13           The interests of all of the parties -- the Petitioners, their customers, and the  
14 Commission -- will be better served by the grant of a suspension until such time as the  
15 demand for LNP and the costs are balanced consistent with a rational public interest  
16 determination and the apparent requirements can be satisfied in an orderly and thoughtful  
17 manner. If the Petitioners are required to implement counter-productive, uncertain, or  
18 infeasible requirements, customers will ultimately bear the harm in the form of greater  
19 costs and a redirection of carriers' resources away from more valuable and worthy efforts.  
20 The implementation and network issues associated with number portability in the rural  
21 areas served by the Petitioners are real and should be addressed in the interest of the  
22 overall public, not just with respect to the interests of a very few customers and wireless  
23 carriers that may want wireline-wireless number portability at the otherwise greater

1 expense to the vast majority of users. Grant of the suspension would serve an overall  
2 and balanced consideration of the public interest.

3 For the reasons set forth in this testimony, implementation of LNP pursuant to the  
4 FCC's apparent directives would result in economic harm in the form of unnecessary  
5 resource burdens on the Petitioners and their customers in the form of higher costs and  
6 rates, undue economic burdens for the small LECs potentially affected by the uncertain  
7 directives, and an apparent requirement for service provision that is not technically  
8 feasible under current conditions. Each one of these conclusions provides a more than  
9 sufficient basis for suspension of the LNP requirements consistent with the relief  
10 requested by the Petitioners. Suspension of the LNP requirements will avoid the adverse  
11 economic impacts set forth in Section 251(f)(2)(A) of the Act, will avoid technically  
12 infeasible requirements, and would be consistent with the Section 251(f)(2)(B) public  
13 interest, convenience, and necessity criteria.

14 These conclusions provide a more than sufficient basis for suspension of the  
15 requirements under the conditions and time frames requested by the Petitioners.

16 **Q53: Does this end your testimony?**

17 **A:** Yes.

## **SUMMARY OF WORK EXPERIENCE AND EDUCATION**

**Steven E. Watkins**

**May 2004**

My entire 28-year career has been devoted to service to smaller, independent telecommunications firms that primarily serve the small-town and rural areas of the United States.

I have been a consultant with the firm of Kraskin, Lesse & Cosson, LLC since June, 1996. The firm concentrates its practice in providing professional services to small telecommunications carriers. My work at Kraskin, Lesse & Cosson, LLC, has involved assisting smaller, rural, independent local exchange carriers ("LECs") and competitive local exchange carriers ("CLECs") in their analysis of a number of regulatory and industry issues, many of which have arisen with the passage of the Telecommunications Act of 1996. I am involved in regulatory proceedings in several states and before the Federal Communications Commission on behalf of small LECs. These proceedings are examining the manner in which the Act should be implemented. My involvement specifically focuses on those provisions most affecting smaller LECs.

I have over the last seven years instructed smaller, independent LECs and CLECs on the specific details of the implementation of the Act including universal service mechanisms, interconnection requirements, and cost recovery. On behalf of clients in several states, I have analyzed draft interconnection agreements and conducted interconnection negotiations and arbitrations pursuant to the 1996 Act.

For 12 years prior to joining Kraskin, Lesse & Cosson, LLC, I held the position of Senior Industry Specialist with the Legal and Industry Division of the National Telephone Cooperative Association ("NTCA") in Washington, D.C. In my position at NTCA, I represented several hundred small and rural local exchange carrier member companies on a wide array of regulatory, economic, and operational issues. My work involved research, analysis, formulation of policy, and expert advice to member companies on industry issues affecting small and rural telephone companies.

My association work involved extensive evaluation of regulatory policy, analysis of the effects of policy on smaller LECs and their rural customers, preparation of formal written pleadings in response to FCC rulemakings and other proceedings, weekly contributions to association publications, representation of the membership on a large number of industry committees and task forces, and liaison with other telecom associations, regulators, other government agencies, and other industry members. I also attended, participated in and presented seminars and workshops to the membership and other industry groups too numerous to list here.

For those not familiar with NTCA, it is a national trade association of approximately 500 small, locally-owned and operated rural telecommunications

providers dedicated to improving the quality of life in rural communities through advanced telecommunications. The Association advocates the interests of the membership before legislative, regulatory, judicial, and other organizations and industry bodies.

Prior to my work at NTCA, I worked for over eight years with the consulting firm of John Staurulakis, Inc., located in Seabrook, Maryland. I reached a senior level position supervising a cost separations group providing an array of management and analytical services to over 150 small local exchange carrier clients. The firm was primarily involved in the preparation of jurisdictional cost studies, access rate development, access and exchange tariffs, traffic analysis, property records, regulatory research and educational seminars.

For over ten years during my career, I served on the National Exchange Carrier Association's ("NECA") Industry Task Force charged with reviewing and making recommendations regarding the interstate average schedule cost settlements system. For about as many years, I also served in a similar role on NECA's Universal Service Fund ("USF") industry task force.

I graduated from Western Maryland College in 1974 with a Bachelor of Arts degree in physics. As previously stated, I have also attended industry seminars too numerous to list on a myriad of industry subjects over the years.

During my career representing small telecommunications firms, I estimate that I have prepared formal written pleadings for submission to the Federal Communications Commission on behalf of NTCA member and Kraskin, Lesse & Cosson client LECs in over two hundred proceedings. I have also contributed written comments in many state proceedings on behalf of Kraskin, Lesse & Cosson client LECs. I have provided testimony in proceedings before the Georgia, Pennsylvania, Indiana, Kentucky, Missouri, Nebraska, Minnesota, Montana, Tennessee, Kansas, South Carolina, New Mexico, West Virginia, and Louisiana public service commissions. Finally, I have testified before the Federal-State Joint Board examining jurisdictional separations changes.

## CERTIFICATE OF SERVICE

I hereby certify that an original and ten (10) copies of the foregoing Direct Testimony of Steven E. Watkins was were hand-delivered to the South Dakota PUC on May 14, 2004, directed to the attention of:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

A copy was sent by U.S.P.S. First Class Mail to:

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Gunderson Palmer Goodsell Nelson  
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Rapid City, SD 57701

David Gerdes  
May, Adam, Gerdes & Thompson  
P.O. Box 160  
Pierre, SD 57501

Dated this 14th day of May, 2004.

A handwritten signature in dark ink, appearing to read 'Richard D. Coit', is written over a horizontal line.

Richard D. Coit, General Counsel  
South Dakota Telecommunications Association  
PO Box 57 – 320 East Capitol Avenue  
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May 14, 2004

Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

RECEIVED  
MAY 17 2004  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: Docket Number TC04-025 (Kennebec)

Dear Pam:

Enclosed herein are the original and ten copies of the PRE-FILED DIRECT TESTIMONY OF DAN DAVIS and the PRE-FILED TESTIMONY OF ROD BOWAR which are filed on behalf of Kennebec Telephone Company.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

CC: Dan Davis (letter only)  
CC: Talbot Wiczorek  
CC: Rod Bowar



**RECEIVED**

BEFORE THE PUBLIC UTILITIES COMMISSION

MAY 17 2004

OF THE STATE OF SOUTH DAKOTA

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF KENNEBEC TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**May 14, 2004**

**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF KENNEBEC TELEPHONE  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "companion" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to develop the cost as shown on Exhibit 2. Please discuss where in your "companion" testimony you describe this process.**

1 A. The process that was used to compile and develop the cost per line in Exhibit 2 is  
2 described on pages four through six in my “companion” testimony.

3 **Q6. What was the source of the data?**

4 A. The data was derived from the books, financial records and managers of the  
5 RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
6 iffs, service order administration service bureaus, the number portability admini-  
7 stration center, a number portability database provider, and my professional ex-  
8 perience.

9 **Q7. What was the purpose of obtaining that particular data?**

10 A. To assist me in preparing an estimate of the costs to implement LNP for the  
11 RLEC.

12 **Q8. Is this the type of data that experts in your field would ordinarily review in**  
13 **formulating an opinion concerning the costs of LNP?**

14 A. Yes.

15 **Q9. What use did you make of the data after you received it from the RLEC?**

16 A. I have explained the use of the data on page six of my “companion” testimony.

17 **Q10. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total non-recurring costs, excluding transport, to implement**  
19 **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
20 **year recovery period through an end user surcharge?**

21 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
22 \$98,569.00. Such costs were amortized over a recovery period of 60 months us-

1 ing a rate of return of 11.25%. The total nonrecurring costs per month, excluding  
2 transport, amortized over five years is \$2,155.00.

3 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
4 **tainty as to the total recurring costs, excluding transport, to implement LNP**  
5 **that you have calculated for the RLEC and that will be recovered from end**  
6 **users on an ongoing monthly charge basis?**

7 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$381.00 per  
8 month.

9 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
10 **tainty as to the total cost, excluding transport, per line per month that would**  
11 **be charged to end-users if LNP were to be implemented by the RLEC?**

12 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
13 the total nonrecurring costs per month amortized over five years to the total recur-  
14 ring costs per month, both amounts excluding transport costs, and dividing this  
15 sum by the RLEC's total access lines. Surcharge and taxes were then applied to  
16 this quotient. The resulting cost per line per month was calculated to be \$3.97.

17 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total LNP costs and the monthly amount recovered from each**  
19 **end-user if the FCC determines that transport costs should be included in the**  
20 **LNP costs recovered from end-users?**

21 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
22 costs, including transport costs, surcharges and taxes, were calculated to be

1           \$7,404.00 per month. The resulting LNP cost per line, per month, including  
2           transport, was calculated to be \$11.58.

3   **Q14. If FCC determines that transport costs should not be included in the end-**  
4           **user surcharge, will the transport cost still be incurred and who will pay**  
5           **these costs?**

6   A.   Transport costs will have to be incurred to transport calls outside of the RLEC's  
7           service area. If the cost is not recovered through an end-user surcharge, and if  
8           these costs are not recovered from the wireless carrier, then the only party to pay  
9           these costs would be the RLEC.

10   **Q15. Is it your opinion that the calculations that you have just described fairly and**  
11           **reasonably describe the non-recurring and recurring costs for the RLEC to**  
12           **implement LNP and the end user charges to recover such costs?**

13   A.   Yes.

14   **Q16. Does this conclude your testimony?**

15   A.   Yes, it does.

16

**Kennebec Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 47,979	
Internal Business Procedure Changes (1)	\$ 20,426	
Inter-carrier Testing	\$ 4,088	
Other Internal Costs (2)	\$ 25,061	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 825	
Total Non-recurring Costs excluding transport	\$ 98,569	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 99,970	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 90	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 141	
Total Recurring Monthly Costs excluding Transport	\$ 381	
Transport	\$ 4,837	
Total Recurring Monthly Costs including Transport	\$ 5,218	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,155	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,186	
Total cost per month excluding transport	\$ 2,536	
Total cost per month including transport	\$ 7,404	
Access Lines excluding Lifeline		735
LNP cost per line per month excluding transport (5)	\$ 3.45	\$ 3.97
LNP cost per line per month including transport (5)	\$ 10.07	\$ 11.58

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION

MAY 17 2004

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AMENDED

Docket No. TC04-025

**DIRECT PRE-FILED TESTIMONY OF**

**ROD BOWAR**

**May 14, 2004**

**DIRECT TESTIMONY OF ROD BOWAR**

**Q: Please state your name and business address.**

A: My name is Rod Bowar, and my business address is P.O. Box 158, 220 South Main, Kennebec, SD 57544. My business telephone number is (605) 869-2220.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Kennebec Telephone Company ("Kennebec"). Kennebec is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to subscribers within its South Dakota service area, which includes the exchanges of Kennebec and Presho. As of December 31, 2003, Kennebec provided service to 751 total access lines, 31 of which receive Lifeline service.

**Q: On whose behalf are you presenting testimony?**

A: I am presenting testimony on behalf of Kennebec.

**Q: What is the purpose of your testimony in this proceeding?**

A: The purpose of my testimony is to explain how the implementation of wireline-to-wireless local number portability ("LNP") would impact the consumers of Kennebec. Specifically, I will review the results of a survey that was conducted for Kennebec, which indicates that the overwhelming majority of our customers do not want wireline-to-wireless LNP at any price. I will also provide demographic information on Kennebec's customers such as age and income distributions. This information further indicates the adverse economic impact that would occur on Kennebec's customers if wireline-to-wireless LNP were to be implemented.



1   **Q.    Please describe how you gathered information regarding the opinions of**  
2       **Kennebec's consumers about the implementation of wireline-to-wireless**  
3       **LNP.**

4    A.   Kennebec commissioned TELEC Consulting Resources, Inc. to conduct a survey  
5       of its consumers. The survey was developed, administered, and analyzed by Ms.  
6       Sue Vanicek. Ms. Vanicek has conducted numerous surveys on telecommunica-  
7       tions issues in her position as a Senior Consultant at TELEC Consulting Re-  
8       sources, Inc., as well as in her previous employment at Lincoln Telephone/Aliant  
9       Communications. I worked with Ms. Vanicek throughout the process, including  
10      discussing the information we would want to collect in a survey, and approving  
11      the questionnaire prior to its distribution.

12   **Q.    How was the survey conducted?**

13   A.   A questionnaire was mailed to each of Kennebec's residential and business cus-  
14      tomers during January, 2004. A total of 575 surveys were mailed, and 208 sur-  
15      veys were returned, for a response rate of 36 percent. A postage-paid return enve-  
16      lope was included with the questionnaire, so that consumers would incur no costs  
17      in completing the survey. The survey explained how wireline-to-wireless LNP  
18      would function, and that consumers would pay a monthly surcharge for five years  
19      so that Kennebec could recover the costs of LNP implementation if it were of-  
20      fered.

21   **Q.    How reliable is the survey?**

22   A.   Ms. Vanicek indicated that based on the number of returned surveys out of the to-  
23      tal mailed, the margin of error for this survey is  $\pm$  4.3 percent at the 95 percent

1 level of confidence. This means that if the survey were conducted 100 times, 95  
2 out of 100 times the results would be within  $\pm 4.3$  percent of the results generated  
3 by this survey.

4 **Q. How willing are consumers to pay an LNP surcharge in order to have wire-**  
5 **line-to-wireless LNP available to them?**

6 A. Only about one-fifth of Kennebec's customers (21.4 percent) said that they would  
7 be willing to pay a surcharge of \$0.50 per month for LNP. When asked if they  
8 would be willing to pay a surcharge of \$1.00 per month, the proportion dropped to  
9 11.8 percent, or about one in ten customers. When asked if they would be willing  
10 to pay a surcharge of \$2.00 per month, the proportion dropped to 2.6 percent, or  
11 about one in forty customers. Only 1.6 percent of Kennebec's customers said  
12 they would be willing to pay a surcharge of \$3.00 per month for LNP.

13 **Q. What other information did the survey reveal?**

14 A. About three-quarters of the survey respondents (73.4 percent) said they have a  
15 wireless telephone. Therefore, if the South Dakota Public Utilities Commission  
16 ("Commission") ordered Kennebec to provide wireline-to-wireless LNP, about  
17 one-fourth of Kennebec's customers would be paying a charge for a feature they  
18 would never use, because they do not own a wireless phone to which they could  
19 port their landline telephone number.

20 **Q. What types of comments did Kennebec's consumers make on wireline-to-**  
21 **wireless LNP?**

22 A. At the end of the survey we asked consumers to provide any written comments  
23 they wished to make on wireline-to-wireless LNP. There were three common

1 themes in the responses. One theme was that Kennebec's customers do not want  
2 to pay for a service that they would not use. A second common theme was that  
3 wireless service was poor or nonexistent in many of the areas served by Kenne-  
4 bec. A third theme contained in the comments was that customers thought rates  
5 were high enough and did not want to see any rate increases.

6 **Q. Do you have any other observations on the comments you received from**  
7 **Kennebec's consumers?**

8 A. Yes. I understand that the Federal Communications Commission ("FCC") has  
9 stated that wireline-to-wireless LNP is a benefit to consumers. However, com-  
10 ments we received included responses such as "THIS IS GOV. SHORTSIGHT-  
11 EDNESS" and "stupid." I think these comments indicate that not all consumers  
12 agree with the FCC that wireline-to-wireless LNP is beneficial.

13 **Q. Have any subscribers requested LNP from your company?**

14 A. No, we have had no subscriber requests for LNP.

15 **Q. Have any wireline carriers requested LNP from your company?**

16 A. No, we have received no requests for LNP from wireline carriers.

17 **Q. Have any wireless carriers submitted requests for LNP?**

18 A. Yes.

19 **Q. How much time would be required for your company to provide LNP,**  
20 **if ordered by the Commission?**

21 A. Kennebec has not completed a specific implementation time line yet, but  
22 Implementation takes a considerable amount of time.

1    **Q.     Please describe what demographic information reveals about Kennebec's**  
2       **customers.**

3    A.    The areas served by Kennebec are composed of consumers who are older and  
4           have lower incomes than the nation as a whole. For example, one in five resi-  
5           dents (20.4 percent) of Kennebec and Presheo are 65 or older as of the 2000 Cen-  
6           sus of Population. This compares to about one in eight people (12.4 percent) in  
7           the United States in that same age group. About three in ten households (28.3  
8           percent) in Kennebec and Presheo have incomes of less than \$20,000 per year, ac-  
9           cording to the 2000 Census. This compares with about two in ten households  
10          (22.1 percent) in the United States in that same range of income.

11   **Q.     What does this demographic data indicate in terms of the impact of a possi-**  
12       **ble LNP surcharge and/or other rate increases to recover the cost of LNP**  
13       **implementation on Kennebec's customers?**

14   A.    Many elderly households are on fixed incomes. Because Kennebec serves a  
15           greater proportion of elderly than the national average, an LNP surcharge or other  
16           rate increases to recover the cost of LNP implementation could cause a greater  
17           burden on Kennebec's customers than occurs in the nation as a whole. This same  
18           statement regarding the burden on Kennebec's customers is also true with regard  
19           to income. Because Kennebec serves a greater proportion of households with low  
20           incomes than the nation as a whole, the burden imposed by an LNP surcharge or  
21           other rate increases related to LNP implementation will cause a greater burden on  
22           Kennebec's consumers.

1   **Q.   Based on the survey results, the lack of requests for LNP, and the demo-**  
2       **graphic data for Kennebec, what do you expect your customer's reaction**  
3       **would be to any new LNP fees that might be added to their bills?**

4   **A.**   Based on the combination of the vast majority of customers stating they do not  
5       want to pay an LNP surcharge, the customer comments indicating that they do not  
6       want to pay for a service that they will not use, the lack of customer requests for  
7       LNP, and the data demonstrating that Kennebec serves more elderly and low-  
8       income customers than the nationwide average, I would expect a very negative  
9       reaction from customers to the addition of charges on their bill to pay for LNP.

10   **Q.   Based on the survey data and demographic data, what is your conclusion**  
11       **generally about the impact of the implementation of wireline-to-wireless**  
12       **LNP on Kennebec's customers.**

13   **A.**   I believe that requiring Kennebec to implement wireline-to-wireless LNP would  
14       result in an adverse economic impact on Kennebec's customers. This is one of  
15       the factors to be considered in a petition for a suspension or modification of Sec-  
16       tion 251(b)(2) of the Telecommunications Act of 1996, as discussed in Mr. Wat-  
17       kins' testimony. As I explained, the vast majority of consumers in Kennebec's  
18       service area do not want to pay an LNP surcharge of \$0.50 or more. Further-  
19       more, Kennebec serves a greater proportion of the population that is older and  
20       has lower incomes than the national average, making any LNP surcharge and  
21       other costs that may be passed on to consumers an even greater burden.

22   **Q.   How should the Commission proceed in this matter?**

1 A. As demonstrated in my testimony and the testimony of Messrs. Watkins, Davis,  
2 and Bullock, Kennebec has met the criteria set forth in 47 U.S.C. Section  
3 251(f)(2)(A). In addition, the suspension requested in this proceeding is consis-  
4 tent with the public interest, convenience and necessity requirement set forth in 47  
5 U.S.C. Section 251(f)(2)(B) as is more specifically addressed in Mr. Watkins' tes-  
6 timony. Therefore, I believe Kennebec has met its burden of proof under 47  
7 U.S.C. Section 251(f)(2), and the Commission should grant Kennebec's petition  
8 for suspension or modification.

9 Kennebec requests suspension of the LNP requirement until there is evidence of  
10 reasonable demand for LNP, and until the per-line cost of LNP is reduced. At a  
11 minimum suspension should be granted until six months following the FCC's full  
12 and final disposition of the issues associated with the porting interval and the  
13 routing of calls between wireline and wireless providers, at which time Kennebec  
14 may need to seek further Section 251(f)(2) relief based upon the economic impact  
15 of these decisions.

16 **Q. Does this conclude your testimony?**

17 A. Yes, it does.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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MAY 17 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

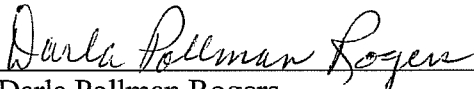
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a copy of the **DIRECT PRE-FILED TESTIMONY OF DAN DAVIS** and the **DIRECT PRE-FILED TESTIMONY OF ROD BOWAR** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
[richcoit@sdtanonline.com](mailto:richcoit@sdtanonline.com)  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fourteenth day of May, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
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ROBERT C. RITER, Jr.  
DARLA POLLMAN ROGERS  
JERRY L. WATTIER  
JOHN L. BROWN

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MAY 17 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

OF COUNSEL:  
Robert D. Hofer  
E. D. Mayer  
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605-224-5825  
FAX  
605-224-7102

May 17, 2004

Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

Re: Docket Number TC04-048 (Beresford)  
Docket Number TC04-025 (Kennebec)  
Docket Number TC04-052 (Midstate)  
Docket Number TC04-056 (Roberts County and RC)  
Docket Number TC04-053 (Western Telephone)

Dear Pam:

Enclosed are the Exhibits referenced in my enclosure letter on Friday, May 14, that are to be attached to Dan Davis's Direct Pre-Filed Testimony pertaining to the above-named dockets.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

CC: Dan Davis  
Rich Coit (with enclosure)  
Talbot J. Wiczorek (with enclosure)  
Dave Gerdes (with enclosure)

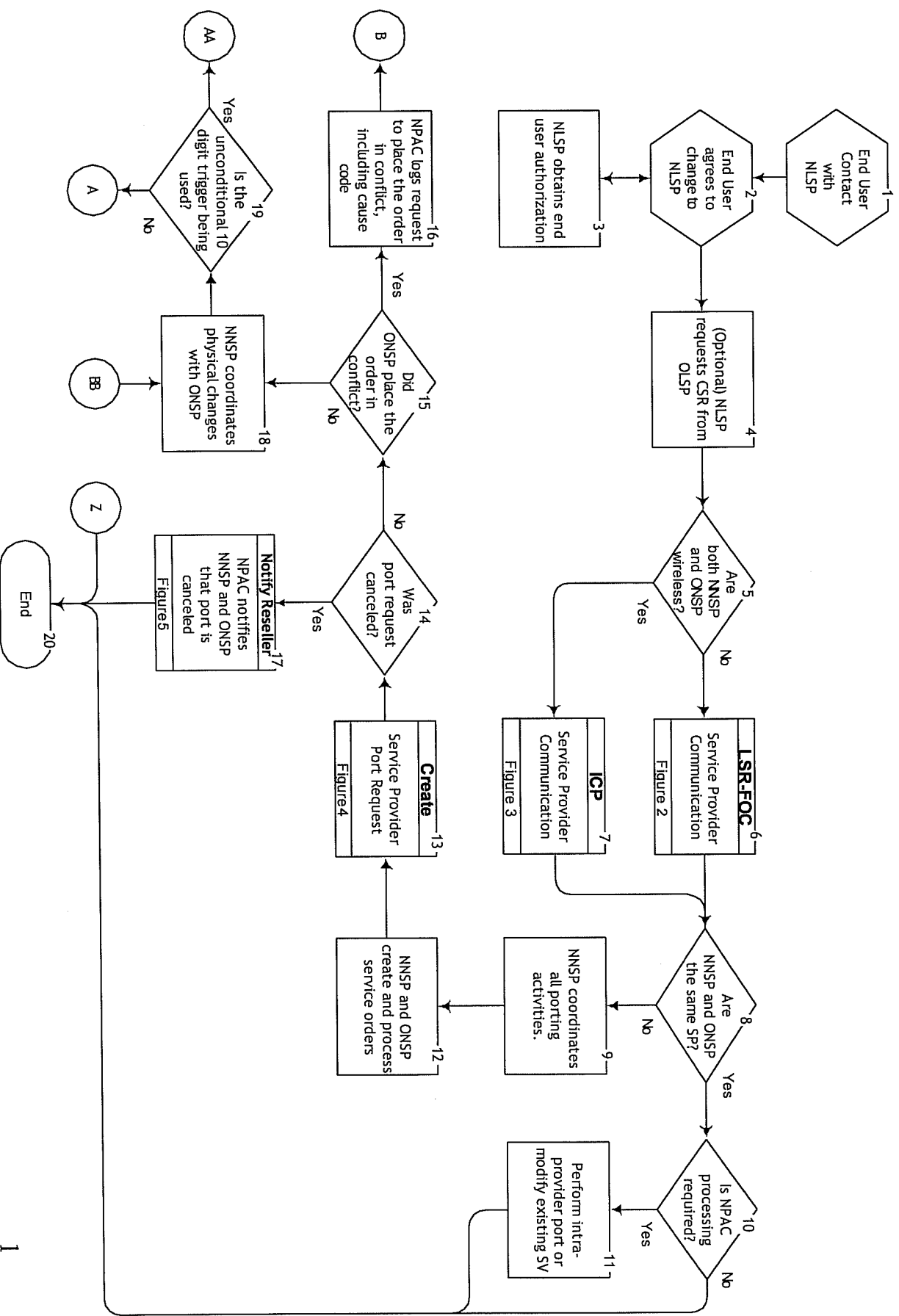


# Exhibit A

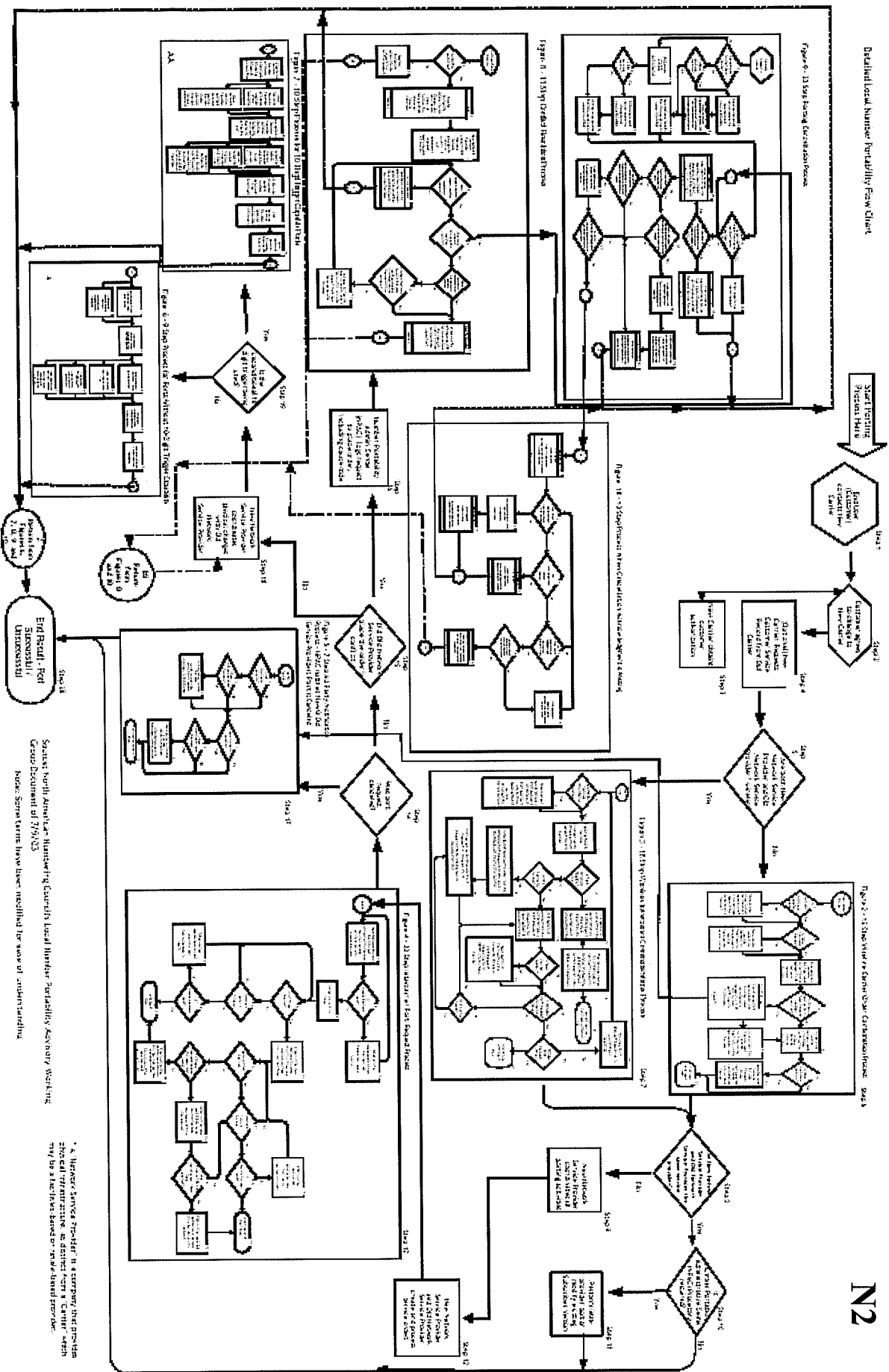
# Inter-Service Provider LNP Operations Flows

- Main Flow -

N1

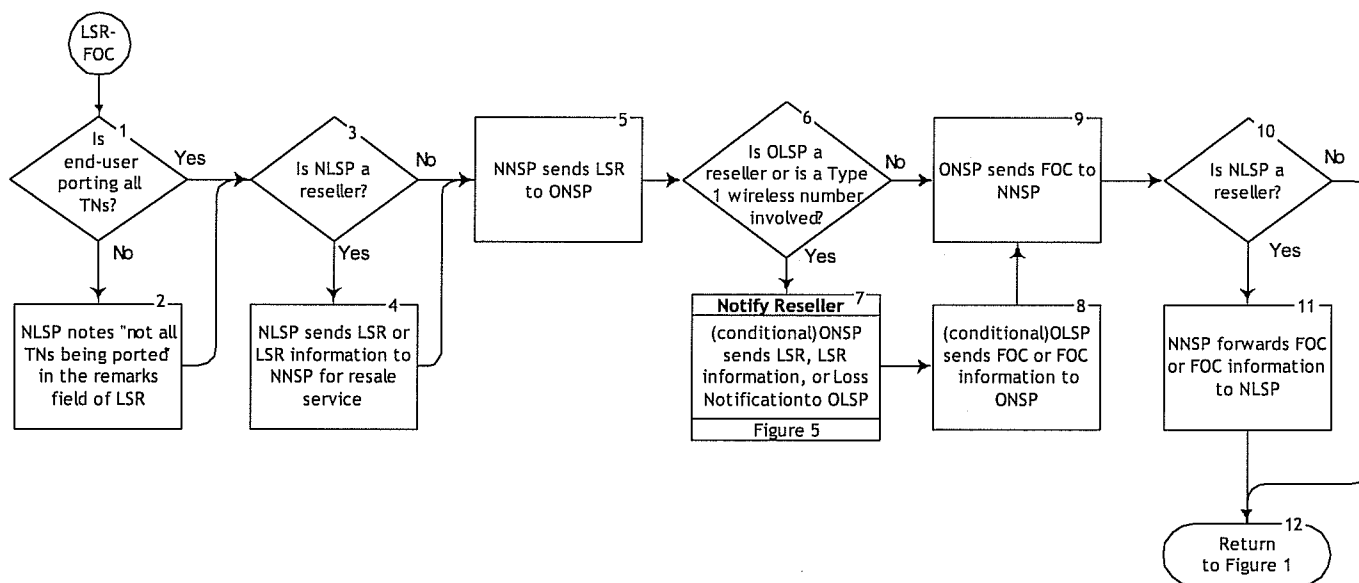


## Detailed LNP Order Flow



## Inter-Service Provider LNP Operations Flows

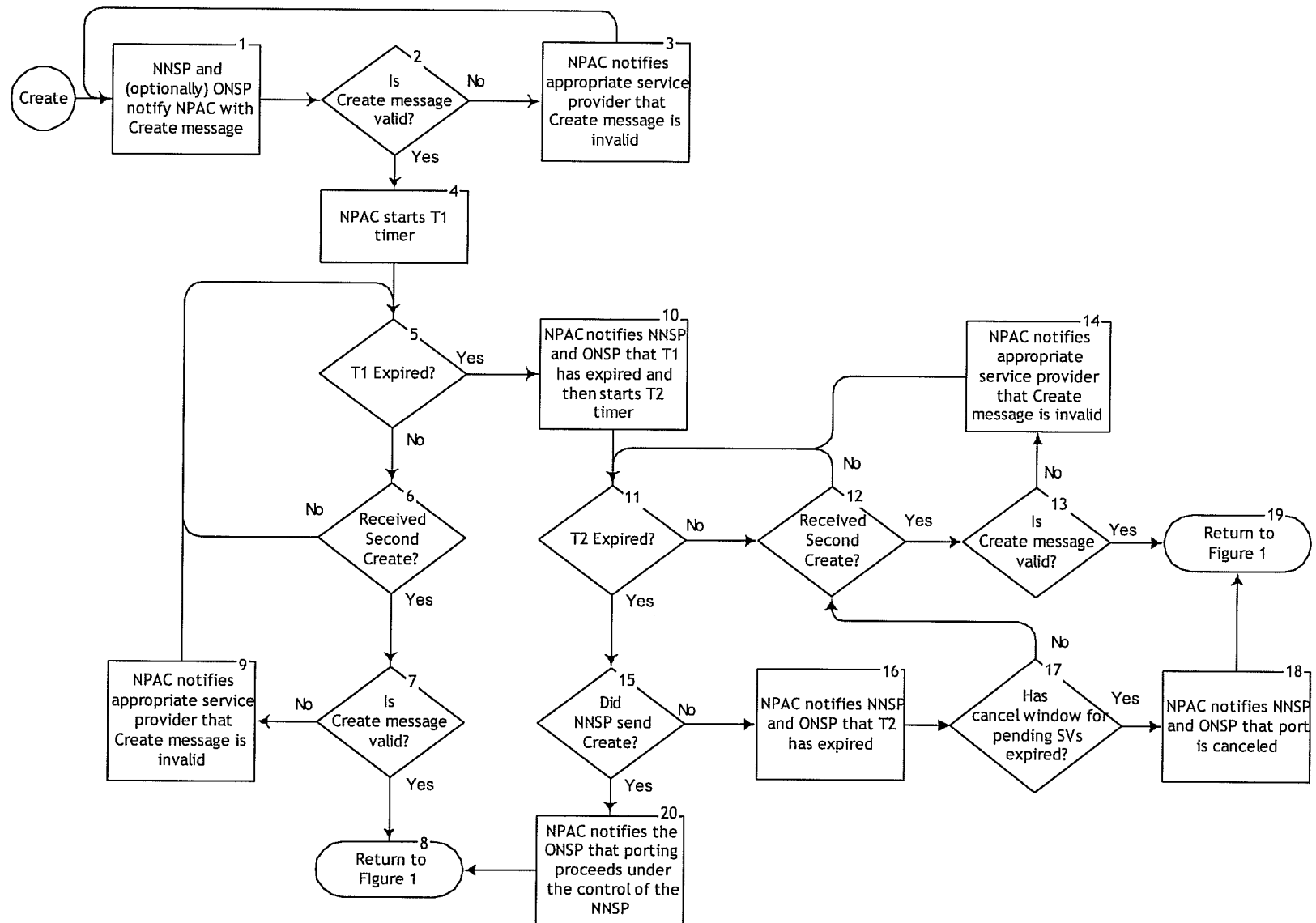
### - Wireline LSR/FOC Process -



# Inter-Service Provider LNP Operations Flows

## - Subscription Version Create Flow -

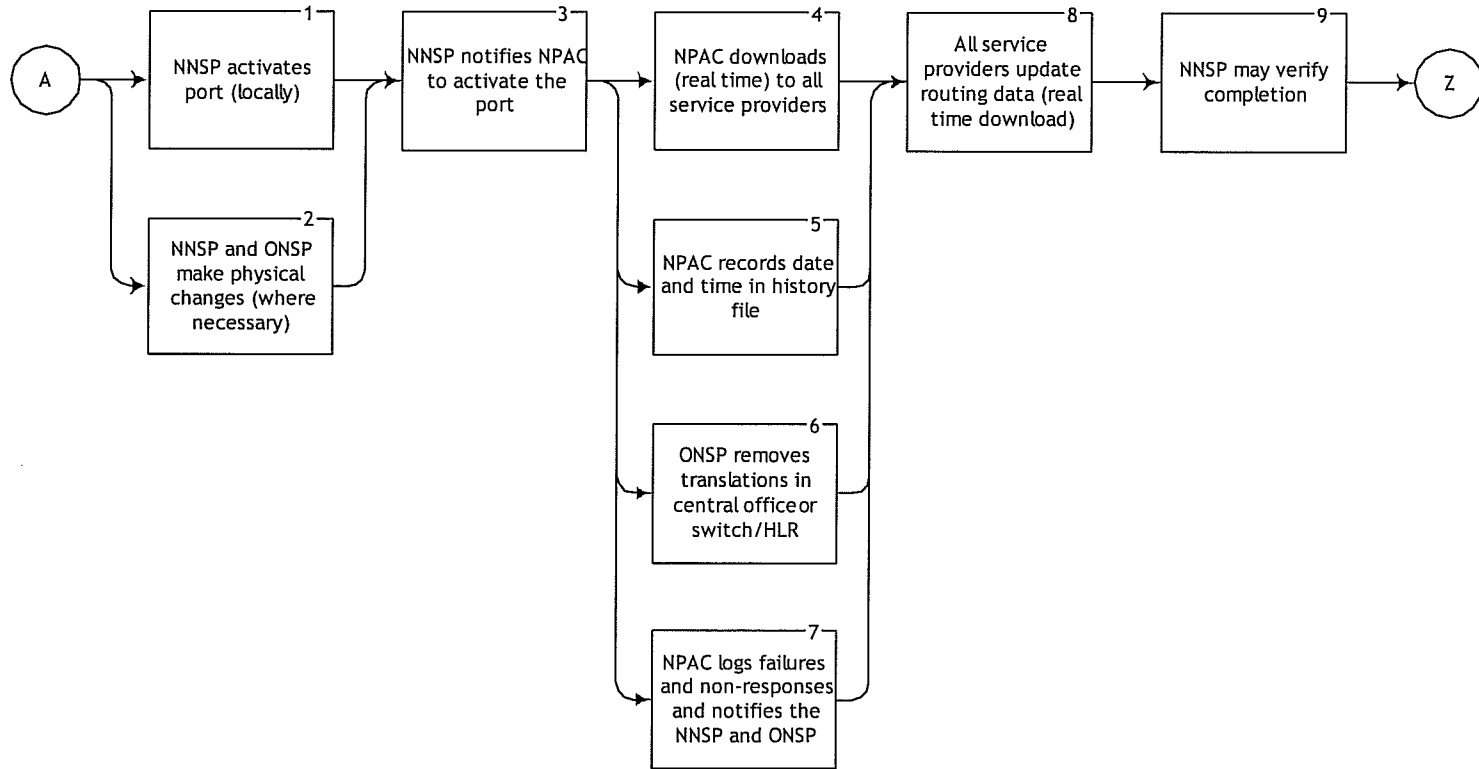
N4



# Inter-Service Provider LNP Operations Flows

## - Provisioning Without Unconditional 10-Digit Trigger -

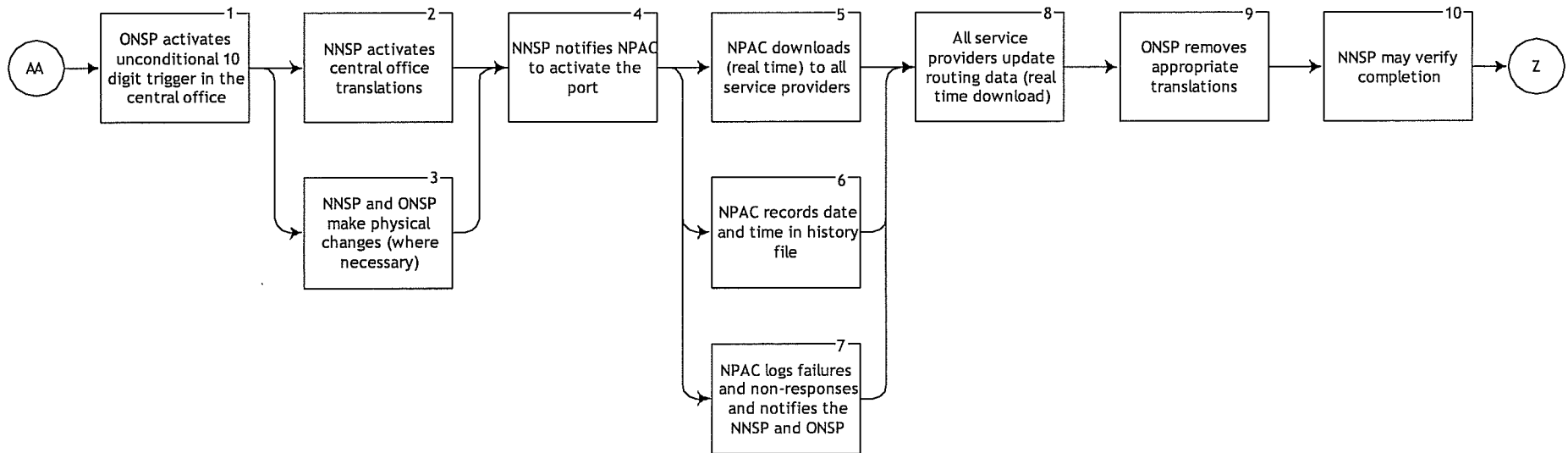
N5



# Inter-Service Provider LNP Operations Flows

## - Provisioning With Unconditional 10-Digit Trigger -

N6



Approved by LNPAWG: 7/9/03

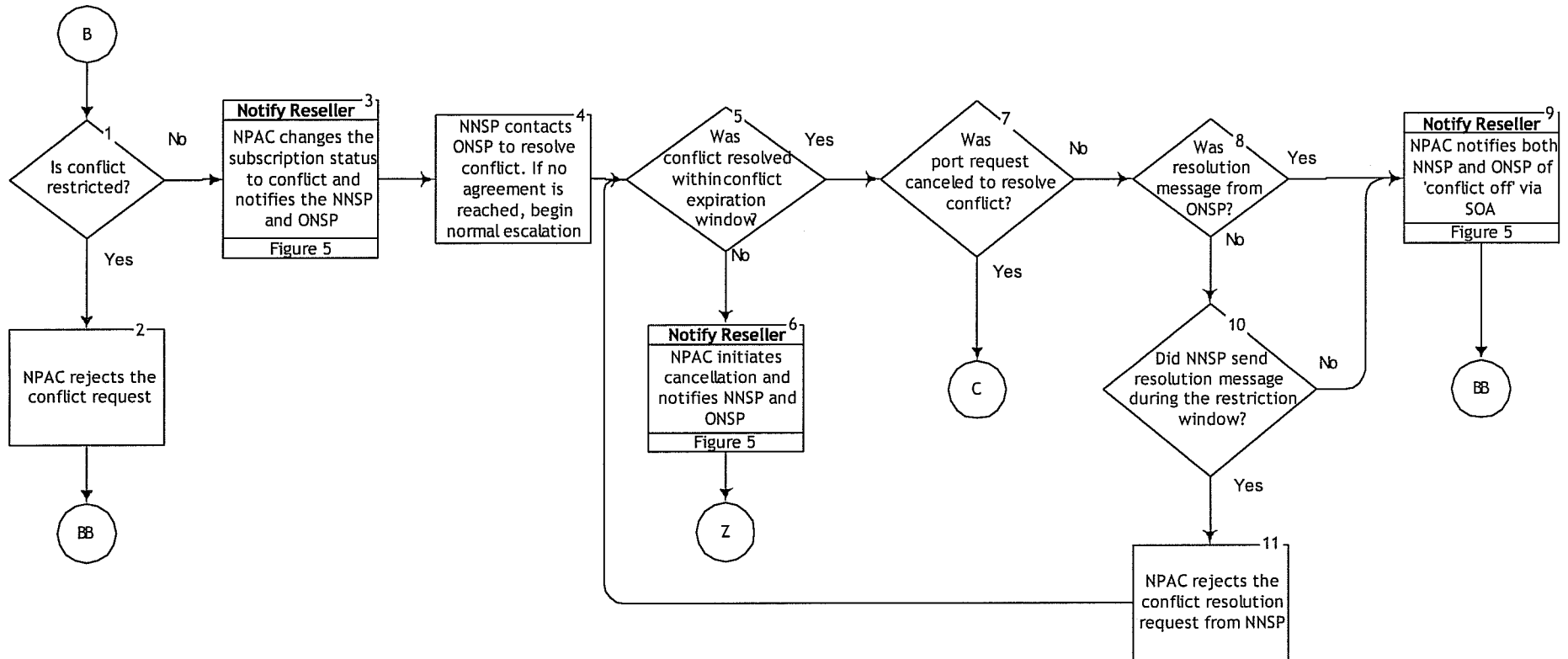
Figure 7

Version 2.0  
6

# Inter-Service Provider LNP Operations Flows

## - Conflict Flow For The Service Creation Provisioning Process -

N7





# Inter-Service Provider LNP Operations Flows

## - Cancellation Flow For Provisioning Process -

N8

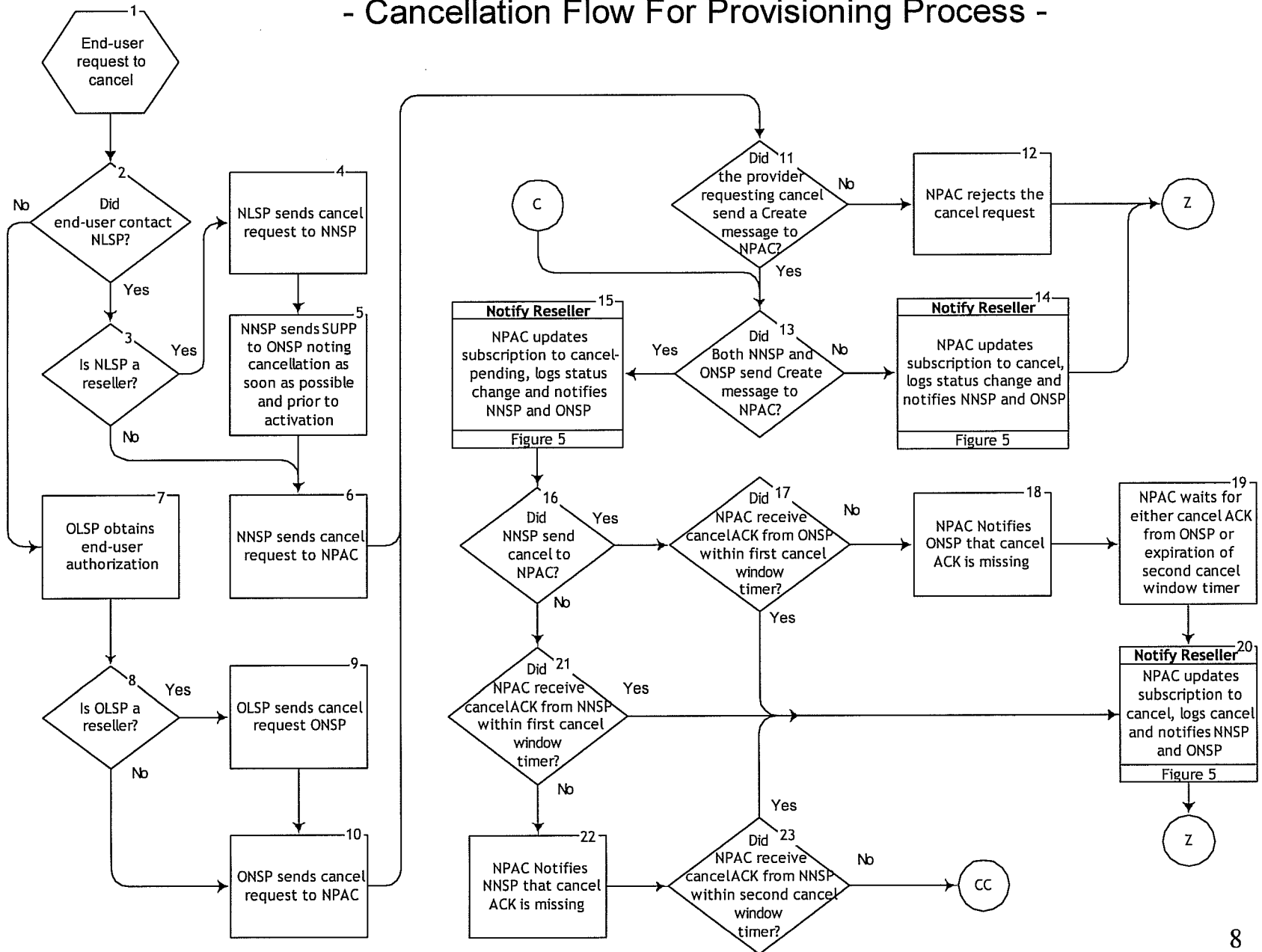


Figure 9

# Inter-Service Provider LNP Operations Flows

N9

## - Cancellation Ack Missing from New Provider Provisioning Process -

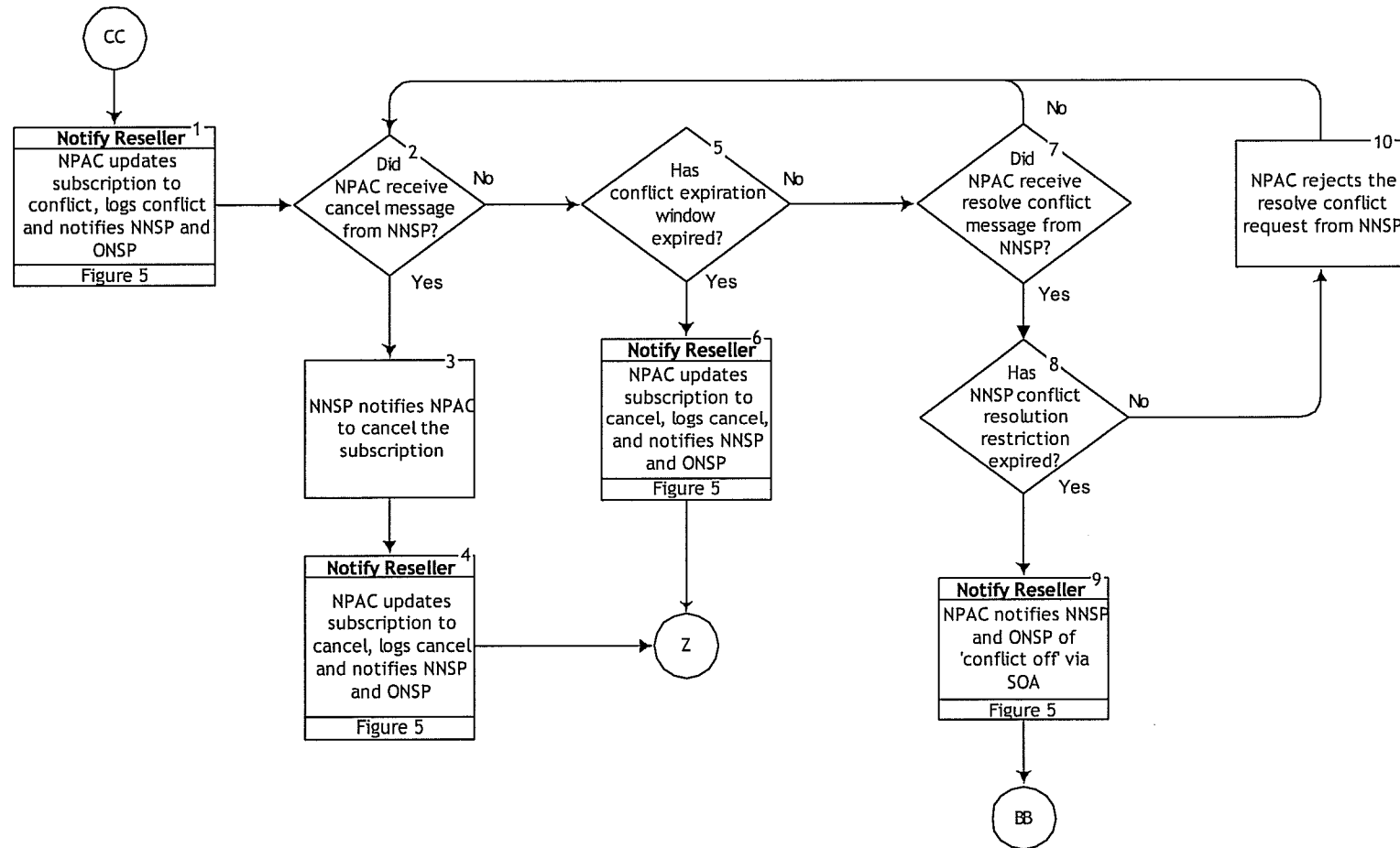


Figure 10

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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MAY 17 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket Number TC04-055  
Docket Number TC04-046  
Docket Number TC04-051  
Docket Number TC04-045  
Docket Number TC04-049

CERTIFICATE OF SERVICE

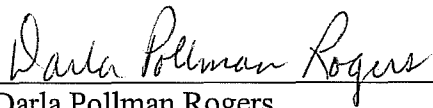
The undersigned hereby certifies that she served a copy of the **EXHIBITS** to be attached to the **DIRECT PRE-FILED TESTIMONY OF Dan Davis** in the above-named dockets, upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wiczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this seventeenth day of May, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
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ROBERT C. RITER, Jr.  
DARLA POLLMAN ROGERS  
JERRY L. WATTIER  
JOHN L. BROWN

OF COUNSEL:  
Robert D. Hofer  
E. D. Mayer  
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605-224-5825  
FAX  
605-224-7102

May 14, 2004

Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

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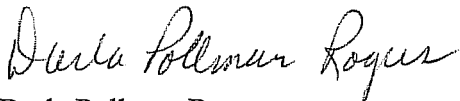
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re:     Docket Number TC04-055 (Alliance Communications, Inc.)  
         Docket Number TC04-046 (Armour, Union, Bridgewater-Canistota)  
         Docket Number TC04-048 (Beresford)  
         Docket Number TC04-051 (Faith)  
         Docket Number TC04-045 (Golden West, Vivian, Kadoka)  
         Docket Number TC04-025 (Kennebec)  
         Docket Number TC04-049 (McCook)  
         Docket Number TC04-052 (Midstate)  
         Docket Number TC04-056 (Roberts County and RC Communications)  
         Docket Number TC04-044 (Sioux Valley)  
         Docket Number TC04-084 (Tri-County)  
         Docket Number TC04-050 (Valley)  
         Docket Number TC04-053 (Western)

Dear Pam:

Enclosed herein are the original and ten copies of the PRE-FILED DIRECT TESTIMONY OF TOM BULLOCK, and the PRE-FILED DIRECT TESTIMONY OF DAN DAVIS, which is filed on behalf of all of the above-listed companies. The majority of the Exhibits in support of this testimony will be filed under separate cover. Because of some proprietary issues that need to be resolved between the parties, these Exhibits will be filed next week.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

CC: Tom Bullock (letter only)

CC: Dan Davis (letter only)

CC: Talbot Wieczorek

CC: David Gerdes

---

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

---

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY, BERESFORD MUNICIPAL  
TELEPHONE COMPANY, MIDSTATE  
COMMUNICATIONS, INC., WESTERN  
TELEPHONE COMPANY, RC COM-  
MUNICATIONS, INC., AND ROBERTS  
COUNTY TELEPHONE COOPERATIVE  
ASSN. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025  
Docket No. TC04-048  
Docket No. TC04-052  
Docket No. TC04-053  
Docket No. TC04-056

**RECEIVED**

MAY 17 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF THE ABOVE-NAMED COMPANIES**

**May 14, 2004**

1 **Introduction**

2  
3 A. Witness Background

4  
5 Q. **Please State your Name, Employer, Business Address and Telephone Num-**  
6 **ber.**

7  
8 A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
9 My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln, Nebraska,  
10 68508.

11 Q. **On whose behalf are you testifying?**

12  
13 A. I am testifying on behalf of the Companies identified in the caption above which I  
14 will refer to as the "RLECs". Each of the RLECs provides local telephone ex-  
15 change service and exchange access services in rural areas of South Dakota.  
16 Each of the RLECs is engaged in the provision of general telecommunications  
17 services in the State of South Dakota.

18 Q. **What is your current position?**

19  
20 A. I am a senior consultant at TELEC Consulting.

21  
22 Q. **What are your duties and responsibilities at TELEC Consulting Resources?**

23  
24 A. I am responsible for consulting with clients regarding regulatory, financial and  
25 interconnection issues.

26 Q. **What was your professional experience prior to your current position?**

27  
28 A. I have worked in the telecommunications industry for 19 years. Prior to my posi-  
29 tion with TELEC, I worked at Aliant Communications (later merged with ALL-  
30 TEL) as the Regulatory/Financial manager of its Nebraska CLEC operation. Prior

1 to that I worked for Aliant Communications in the areas of Regulatory Policy and  
2 Separations and Access.

3 Q. **What is your educational background?**

4  
5 A. I have a Master's degree in Finance and a Bachelor's degree in Business from the  
6 University of Nebraska.

7 Q. **What is the purpose of your testimony?**

8  
9 A. The purpose of my testimony is to support the applications filed pursuant to Sec-  
10 tion 251(f)(2) of the Telecommunications Act of 1934 as amended ("the Act")  
11 and South Dakota Codified Laws SDCL § 49-31-80, by each of the RLECs. Spe-  
12 cifically, I will address the costs developed by each of the RLECs' personnel and  
13 TELECOM that were identified as costs that would be incurred for the provision of  
14 LNP. These costs serve as support for each of the RLECs' contention that a sus-  
15 pension or modification of the FCC's wireline-to-wireless LNP requirement is  
16 necessary pursuant to Section 251(f)(2)(A)(i) of the Act, to avoid a significant  
17 adverse economic impact on telecommunications users generally, or pursuant to  
18 Section 251(f)(2)(A)(ii) to avoid imposing a requirement that is unduly economi-  
19 cally burdensome.

20 Q. **Will you please explain your professional experience that was used in assist-**  
21 **ing the RLECs to develop their costs?**

22  
23 A. Yes, I will. As I stated earlier, I previously held the position of CLEC Regula-  
24 tory/Finance Manager for Aliant Communications' start-up CLEC operation. As  
25 the CLEC Regulatory/Finance Manager, I was involved in many of the CLEC's  
26 implementation activities, including LNP. Although I was not directly responsi-



1 ble for the implementation of LNP, I was responsible for interfacing with the  
2 Qwest Wholesale Management team on issues relating to LNP. In addition, I had  
3 the responsibility of tracking the costs of the CLEC's customer support operations  
4 and network management, where the direct responsibility for LNP implementa-  
5 tion resided.

6 As part of the CLEC implementation team, I attended a Qwest training session on  
7 LNP. As part of the training session, I toured the Qwest service facilities where  
8 local service request forms ("LSRs") and firm order confirmation forms ("FOCs")  
9 were processed. At that time, the Qwest automated IMA system was in develop-  
10 ment, thus Qwest was processing many LSRs and FOCs through their systems  
11 manually. Many of the RLECs would process LSRs and FOCs through their sys-  
12 tems manually if LNP were required to be implemented.

13 As the regulatory manager and as a consultant, I have negotiated many intercon-  
14 nection agreements and have completed documentation required by service order  
15 administrators ("SOAs") and Neustar. In addition, I have compiled data neces-  
16 sary to file tariffs at both the state and federal levels.

17 Q. **Will you please explain the process used to compile and develop the cost per**  
18 **line in Exhibit 2 as compiled for each of the RLECs?**

19  
20 A. Yes, I will. After the FCC released its November 10, 2003 Order on wireline to  
21 wireless LNP, personnel representing each of the RLECs and TELEC Consulting  
22 personnel began an in-depth analysis of new processes which would be required  
23 for RLEC's to implement LNP and costs that would have to be incurred to im-  
24 plement LNP. We specifically discussed and analyzed administrative require-

ments such as registering with the Number Portability Administration Center (“NPAC”), SOAs and service bureau options, technical interfaces with the service bureau, provisioning processes, switch upgrades, query services, cost recovery and LNP end user charges and tariff filing requirements. In addition, we analyzed other requirements necessary to implement wireline to wireless LNP based upon the FCC’s November 10, 2003 Order.

Q. **Will you please explain the information that TELEC requested the RLECs to review, analyze, and compile regarding the implementation of LNP?**

A. Yes, I will. TELEC specifically requested for each RLEC to obtain a price quote from its switch vendor for LNP capability (including installation) in each switch. Estimated costs of implementing LNP, such as switch translation changes and additional signaling links, were requested. In addition, TELEC requested that each RLEC analyze in detail the modifications to its internal processes that would be required as a result of LNP implementation and the costs of those modifications. Specifically, each RLEC was to analyze the requirements necessary to develop internal provisioning processes that would allow the company to process an order for LEC-to-wireless LNP interfaces. TELEC provided each RLEC with an initial list of issues and types of costs to consider. TELEC also requested for each company to estimate how many hours executive and general management would spend in reviewing the November 10, 2003 Order, researching the implications of LNP, and attending seminars and conference calls that specifically addressed or would address LNP. TELEC requested that each company also estimate the costs that would be incurred to notify customers of any LNP end-user surcharge. Fi-

1 nally, TELEC requested that each RLEC develop the cost that would be required  
2 to transport calls to each wireless provider's point of interconnection within the  
3 LATA in which each end-office is located. I will address each of these compo-  
4 nents in my explanation of Exhibit 2.

5 Q. **Will you please identify the processes for which TELEC analyzed and devel-**  
6 **oped costs on behalf of the RLECs?**

7  
8 A. Yes, I will. TELEC reviewed SOA service bureau options and the cost incurred  
9 for connectivity to the service bureau and the estimated monthly costs for each in-  
10 terface option. TELEC determined the pricing for LNP query service including  
11 the one-time implementation fee and the per query charge based upon pricing  
12 provided by a query service provider. TELEC provided input on the number of  
13 hours required for negotiating and establishing inter-company porting agreements,  
14 completing trading partner profile requests, establishing and finalizing contracts  
15 with a SOA and with the NPAC, and the time and cost to file tariffs with the FCC.  
16 TELEC also estimated the time and costs for inter-carrier testing, the monthly  
17 costs of processing porting requests, and customer notification cost if it was not  
18 provided by the company. I will explain each of these components in my expla-  
19 nation of Exhibit 2.

20 Q. **Will you please explain what was done with the information that was com-**  
21 **plied?**

22  
23 A. Yes, I will. After all of the data was compiled, the costs that were developed  
24 were entered onto an Excel spreadsheet under specific non-recurring and recur-  
25 ring cost categories. The total non-recurring costs and the total recurring costs

1 were calculated which were then used to calculate a total cost per access line.  
2 This information formed the basis for Exhibit 1 that was filed with each of the  
3 RLEC's Petitions. Since that time, I have performed a more thorough analysis of  
4 these costs, taking into account, additional data that I received from the RLECs  
5 and from providers of LNP services. This further analysis is reflected in the re-  
6 sults shown on Exhibit 2.

7 Q. **Will you please explain what costs are represented by the line item entitled**  
8 **"Switch Upgrade Costs" on the page titled "Exhibit 2" attached to each of**  
9 **the RLECs' applications?**

10  
11 A. Yes. In general, switch upgrade costs are those that are incurred that allow a  
12 switch to launch a query to the number portability database over the SS7 network  
13 to determine whether a telephone number has been ported and the Location Rout-  
14 ing Number ("LRN") for the switch that serves the ported number. Switch up-  
15 grade costs also include any costs that are required to update switch translation  
16 tables that will associate the LRN of the new service provider's switch or Point of  
17 Interconnection ("POI") with the trunk group number for outgoing traffic to that  
18 service provider. When the response comes back from the database query with  
19 the LRN, the routing table will cause the call to be routed down the appropriate  
20 trunk group for call completion.

21 Q. **Will you please explain what costs are represented on the line item on Ex-**  
22 **hibit 2 entitled "Internal Business Procedure Changes"?**

23  
24 A. Yes, I will. These are costs associated with modifying the internal processes that  
25 the RLECs, use to enable the processing of a request for porting a number. The  
26 nine slides, obtained from Neustar and EasyPorting.com and attached to this tes-

1 timony as Exhibit A, are useful to review to obtain an understanding of LNP op-  
2 erations flows. Once an understanding of the LNP operations flows had been ac-  
3 quired by the RLECs, each was able to review their current operations flows and  
4 determine the modifications that would be required for LNP.

5 Page N1 shows the main process flow commencing with an end-user contacting  
6 the new service provider. The new service provider contacts the old service pro-  
7 vider by sending an LSR. The old service provider validates the information on  
8 the LSR. The old service provider communicates with the new service provider  
9 by sending an FOC. Both the old service provider and the new service provider  
10 contact their SOA. The old service provider enters data obtained from the LSR  
11 onto a web interface with the SOA. Assuming there are no conflicts or that the  
12 end user does not change his or her mind, on the due date, the Number Portability  
13 Administration Center or "NPAC" downloads all of the information into the  
14 number portability databases and the order should then complete. These obvi-  
15 ously are very complicated processes, particularly for rural companies that have  
16 limited resources.

17 Page N2 shows the detailed LNP flow that most carriers must take into considera-  
18 tion in planning modifications to internal processes. Page N3, which is a subpart  
19 of Page N1, shows the exchange of the LSR and FOC between the wireline and  
20 wireless provider. Page N4, which is a subpart of Page N1, shows the exchange  
21 of information between the wireline provider and wireless provider with the SOA  
22 or with the NPAC. Page N5 demonstrates how a port is activated without the un-

1 conditional 10 digit trigger. Page N6 demonstrates how a port is activated with  
2 the unconditional 10 digit trigger. Page N7 demonstrates the process flow if there  
3 is a conflict between the old service provider and the new service provider. This  
4 conflict may be caused by incomplete or incorrect data entered on the LSR or it  
5 may be caused by inconsistent data provided to the NPAC by either the new or  
6 old service provider. Page N8 demonstrates the process when an end-user  
7 changes his or her mind and requests that the porting order be cancelled. Page N9  
8 is a continuation of Page N8 . This page also demonstrates the process flow when  
9 the order has been cancelled but in this case, a cancellation notification message  
10 was not provided to the NPAC from the new service provider. Both the new ser-  
11 vice provider and the old service provider must take the appropriate actions re-  
12 lated to internal work orders in order in to resolve the conflict and cancel the or-  
13 der.

14 LNP requires the creation or modification of internal business processes or proce-  
15 dures. The costs included on the line entitled "Internal Business Procedure  
16 Changes" captures the cost to create a process to enable the RLEC to process an  
17 LSR and FOC. Additional activities and costs included on this line of Exhibit 2  
18 are costs involved in researching the changes that need to occur to communicate  
19 with the SOA's service bureau and/or the NPAC and the cost of the actual modi-  
20 fications. Additional costs in this category include training customer service per-  
21 sonnel, researching and complying with industry LSR and FOC standards, chang-  
22 ing and adding service order screens, changing and adding plant management sys-

1        tems for disconnects based upon LSR information, and researching methods to  
2        inventory ported numbers. The costs also include those associated with research-  
3        ing possible communications changes to PSAPs, reviewing different porting ap-  
4        plications between simple and complex ports, researching interfaces with regional  
5        databases, establishing reports that may be required by the Commission or FCC,  
6        and costs of putting the end-user charge on the monthly bill. These are other  
7        types of activities and costs that are included in the category.

8        Q.     **Will you please explain what costs are represented on the line item on Ex-**  
9        **hibit 2 entitled “Intercarrier Testing”?**

10  
11     A.     Yes, I will. The costs included with this subcategory are those costs incurred to  
12     test all of the porting processes prior to processing the first porting request and to  
13     trouble shoot any problems that may occur during the initial phases of LNP im-  
14     plementation. As previously demonstrated, LNP involves many new and compli-  
15     cated processes which must be tested prior to implementation to ensure that orders  
16     for porting will be completed either successfully or with a minimal amount of  
17     failures. All of the process flows described in pages N1 through N10 of Exhibit B  
18     must be tested, including canceled orders and orders when the end-user returns to  
19     the original service provider. The West Coast NPAC Region OPI Testing Sub-  
20     committee identified seven key elements associated with inter-company testing  
21     that commence after carriers have developed and tested their internal processes.  
22     The key elements identified are :

- 23     1.    Contact Test Partner, 60 days prior to test.  
24     2.    Logical Test Planning, 60 days prior to test start.

- 1           3. Physical Test Planning, 45 days prior to test start.
- 2           4. Final test preparation.
- 3           5. Begin testing by exchanging LSR and FOC information.
- 4           6. Evaluate test results.
- 5           7. Commence commercial porting.

6           These process flows have caused problems for even the larger wireless carriers in  
7           implementing wireless-to-wireless LNP. For example, in a letter to the FCC re-  
8           garding LNP implementation<sup>1</sup>, AT&T Wireless stated that “while AWS con-  
9           ducted intercarrier testing, including bilateral and round robin systems testing, the  
10          other carrier’s clearinghouse vendor implemented its systems based on a differing  
11          interpretation of industry guidelines and suffered periodic outages during the  
12          critical last weeks of testing that hampered adequate testing.” AT&T further  
13          stated in the same letter that “Despite all of these efforts to implement and prepare  
14          for a smooth transition to LNP, the implementation of LNP has not been without  
15          problems for AWS as well as the wireless industry as a whole. LNP is a major  
16          undertaking of great complexity that affects nearly every aspect of carriers’ sys-  
17          tems; this complexity is compounded by the fact that various carriers’ systems  
18          need to interface and communicate with each other seamlessly during a com-  
19          pressed period of time for porting to work smoothly.” I believe AT&T’s experi-  
20          ence demonstrates the complexities of LNP and the need for adequate testing

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<sup>1</sup> Letter from Douglas I. Brandon, Vice President, External Affairs & Law, AT&T Wireless, addressed to John B. Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, December 10, 2003.



1 weeks prior to the first porting possibility. It should also be noted that given the  
2 size of each of the RLECs, testing and its related costs would be a significant bur-  
3 den.

4 Q. **Will you please explain what costs are represented on the line item on Ex-**  
5 **hibit 2 entitled "Other Internal Costs"?**

6  
7 A. Yes. The costs that are included in this subcategory are regulatory, consulting,  
8 and legal costs. These are costs that are incurred to negotiate and establish  
9 agreements with NPAC and the SOA, query service entities and service providers  
10 requesting LNP. Also included in this sub-category are costs associated with  
11 completing intercarrier porting forms and trading partner profile forms; establish-  
12 ing, writing and filing a tariff with the FCC for the end-user charge; and compa-  
13 nies' management on LNP implementation.

14 Q. **Will you please explain what costs are represented on the line entitled "LNP**  
15 **Query set up"?**

16  
17 A. Yes, I will. This is a one time charge that a third party data base provider assesses  
18 on a per point code basis in order to obtain connection with the number portability  
19 databases.

20 Q. **Will you please explain what costs are represented on the line item on Ex-**  
21 **hibit 2 entitled "SOA Non-recurring set-up charge"?**

22  
23 A. Yes, I will. This is a charge that is assessed by the SOA service bureau as a one-  
24 time charge that allows the RLEC to set-up and access the SOA service bureau's  
25 web interface. An RLEC would enter data received from a wireless carrier onto a  
26 screen accessed through the web. The information entered will ultimately be used  
27 to update the master database with information on the ported number. Once the

1 RLEC receives an LSR from a wireless carrier, the RLEC would enter data from  
2 the LSR, such as the customer's name, address, and due date onto the screen. If  
3 all of the data is correct on the LSR and the data has been entered onto the screen  
4 correctly and assuming the customer does not change his or her mind and cancel  
5 the order, the SOA service bureau will send an "activate" message to the NPAC  
6 on the due date, and the master database is updated with the new record.

7 Although TELECOM used the low cost provider in calculating the cost on Exhibit 2,  
8 it is important to note that there could be legitimate business reasons why a com-  
9 pany may choose to use a full-scale service bureau.

10 Q. **Will you please explain the costs that are represented by the line item on Ex-**  
11 **hibit 2 entitled "Customer Notification Costs"?**

12  
13 A. Yes. These are costs that will be incurred to notify and educate customers of the  
14 end-user surcharge that will be assessed on their monthly bill as well as any other  
15 line item on the bill that may increase as the result of LNP implementation.

16 Q. **Will you please explain what costs are represented on the line item on Ex-**  
17 **hibit 2 entitled "Non-recurring transport charges"?**

18  
19 A. Yes, I will. These are the non-recurring costs associated with establishing DS1  
20 trunk groups to each wireless provider's POI in each LATA. If a wireless carrier  
21 has not established a direct connection within an RLEC exchange in which it re-  
22 quests LNP the facilities would need to be provisioned to ensure that the proper  
23 routing and completion of calls to ported numbers occur.

24 Q. **Why are these costs included in the cost analysis?**  
25

1 A. Costs to transport ported calls to a wireless carrier's POI have been included in  
2 our analyses to demonstrate the potential impact that transport costs would have  
3 on the RLECs' end-users if the RLEC must arrange for the transport to accom-  
4 modate LNP.

5 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
6 **hibit 2 entitled "Transport"?**

7  
8 A. Yes. This is the monthly cost of DS1s that would be incurred to provision trans-  
9 port facilities to wireless service providers if the RLECs must provide transport  
10 services outside of their exchange areas. DS1 services have previously been de-  
11 scribed under the line item entitled "Non-recurring transport charges".

12 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
13 **hibit 2 entitled "SOA Monthly Charge"?**

14  
15 A. Yes, I will. This is the monthly cost assessed by a SOA service bureau for access-  
16 ing the SOA's web interface to enter the porting information received from a  
17 wireless carrier on an LSR. SOA services were previously described under the  
18 description entitled "SOA non-recurring set-up charge".

19 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
20 **hibit 2 entitled "LNP Query Costs per month"?**

21  
22 A. Yes, I will. This is the cost that would be assessed by a third party database pro-  
23 vider for the RLEC to query its database to determine if the number has been  
24 ported and, if so, the appropriate LRN to which the call should be routed. This  
25 cost is assessed either on a per-query basis, or in a flat monthly amount if the  
26 number of queries does not reach a minimum level each month.

1 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
2 **hibit 2 entitled “Other Recurring Costs”?**

3  
4 A. Yes, I will. These are the costs that are associated with RLEC personnel process-  
5 ing an LNP order and disconnecting the end-user.

6 Q. **Will you please explain how the “Monthly Cost calculations per line”**  
7 **amounts were calculated?**

8  
9 A. Yes I will. There are four lines of cost derived under the heading “Monthly Cost  
10 Calculations per line”. The first line involves the calculation of the total nonrecur-  
11 ring cost per line per month excluding the cost of transport. The cost on this line  
12 is calculated by amortizing the amount on the line titled “Total Non-recurring  
13 Costs excluding transport” over a 60-month period at the current rate of return of  
14 11.25% as prescribed pursuant to Part 65 of the FCC rules.

15 The second line involves the calculation of the total nonrecurring cost per line per  
16 month including the cost of transport. The cost on this line is calculated by amor-  
17 tizing the amount on the line titled “Total Non-recurring Costs including trans-  
18 port” over a 60-month period at the current rate of return of 11.25% as prescribed  
19 pursuant to Part 65 of the FCC rules.

20 The third line involves the calculation of the total cost per line excluding trans-  
21 port. The cost on this line is calculated by adding the amount as shown on the  
22 “Total Nonrecurring cost per month excluding transport” line with the amount as  
23 shown on the “Total Recurring Monthly Cost excluding Transport” line.

24 The fourth line involves the calculation of the total cost per line including trans-  
25 port. The cost on this line is calculated by adding the amount as shown on the

1        “Total Nonrecurring cost per month including transport” line with the amount as  
2        shown on the “Total Recurring Monthly Cost including Transport” line.

3    Q.    **Will you please explain how the LNP cost per line per month is calculated?**

4    A.    Yes, I will. The total cost per month excluding transport is divided by the access  
5        lines to derive the LNP cost per line per month excluding transport amount. The  
6        total cost per month including transport is divided by the access lines to derive the  
7        LNP cost per line per month including transport amount.

8    Q.    **Has the FCC created a mechanism for carriers to recover carrier-specific**  
9        **costs directly related to providing LNP from end-users?**

10  
11   A.    Yes, it has. The FCC in its Third Report and Order on LNP allowed, but did not  
12        require, incumbent LECs to recover their carrier-specific costs directly related to  
13        providing number portability through a federal charge on end-users.<sup>2</sup> The FCC  
14        determined that incumbent LECs should pro rate the monthly LNP charge over  
15        five years by setting a rate at which the present value of the revenue recovered by  
16        the charge equals the present value of the cost being recovered.<sup>3</sup> The FCC found  
17        that carriers should use a discount rate equal to the rate of return on investment  
18        that the FCC has authorized for regulated interstate access services pursuant to  
19        Part 65 of the FCC rules. Any remaining costs must be recovered through existing  
20        mechanisms available for recovery of general costs.<sup>4</sup>

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<sup>2</sup> *In the Matter of Telephone Number Portability*, CC Docket 95-116, RM 8535, *Third Report and Order*, Released May 12, 1998, at paragraph 135.

<sup>3</sup> *Id.* at paragraph 143.

<sup>4</sup> *Ibid.*

1 In addition, the FCC found that after a carrier establishes its level end-user charge  
2 in the tariff review process, the FCC would not anticipate that the carrier could  
3 raise the charge during the five-year period unless it could show that the end-user  
4 charge was not reasonable based upon the information available at the time it was  
5 initially set.<sup>5</sup>

6 Q. **If carrier is restricted in its ability to change the LNP tariff charge during 5**  
7 **year period, does this impact how carrier implements LNP?**  
8

9 A. Yes, it does. A carrier can not recover any increase in cost it incurs in the future  
10 through the LNP surcharge once the charge has been approved by the FCC. If a  
11 carrier tries to minimize its cost to implement LNP, it risks exposure to any future  
12 increase in cost. Thus, in order to reduce its exposure to this risk, a carrier may  
13 implement LNP using service providers or systems that may not, in all cases, be  
14 the low cost provider or product.

15 Q. **Has the FCC created a standard that carriers must follow in demonstrating**  
16 **that costs are eligible for recovery through the federal charges recovery**  
17 **mechanism?**  
18

19 A. Yes, it has. In a Memorandum Opinion and Order, the FCC's Common Carrier  
20 Bureau adopted a "but for" test used to identify carrier-specific costs directly re-  
21 lated to LNP. Under this test, costs are eligible for recovery in the FCC LNP end-  
22 user surcharge if they satisfy the following two requirements: (1) the costs would

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<sup>5</sup> Id. at paragraph 144.

1 not have been incurred by the carrier “but for” the implementation of LNP; and

2 (2) the costs were incurred “for the provision of” LNP.<sup>6</sup>

3 Q. **Do you believe that all of the costs on Exhibit 2, other than transport costs,**  
4 **are recoverable from the FCC’s LNP end-user charge based upon the stan-**  
5 **dard created by the FCC?**

6  
7 A. I believe that all of the costs as represented on Exhibit 2, with the exception of  
8 surcharges and taxes, meet the standard created by the FCC.

9 Q. **Why is the cost of transport included on Exhibit 2 and does the cost for**  
10 **transport meet the standard created by the FCC?**

11  
12 A. Each of the RLECs has included transport costs to provide full accounting of  
13 costs that may be incurred to implement LNP. It is not clear if the transport cost  
14 can be recovered from end-users through the LNP surcharge, pursuant to the  
15 FCC’s rules.

16 Q. **If some of the costs that are incurred as a consequence of LNP but not recov-**  
17 **ered from the FCC’s end-user surcharge, is it reasonable to include any such**  
18 **costs as part of the total cost on Exhibit 2?**

19  
20 A. Yes. In order to determine the economic impact on end-users, all of the potential  
21 increases in cost that may ultimately be passed on to users must be determined.  
22 These potential costs may be passed through to the users in forms that are in addi-  
23 tion to the FCC’s LNP end-user surcharge.

24 Q. **If the total costs are not allowed to be recovered through the FCC’s end user**  
25 **surcharge, how would the costs excluded from the FCC’s end user surcharge**  
26 **be recovered?**  
27

---

<sup>6</sup> *Telephone Number Portability Cost Classification Proceeding*, CC Docket No. 95-116, RM 8535, *Memo-randum Opinion and Order*, 13 FCC Rcd, 24495, 24500, Adopted December 14, 1998, at paragraph 10.

1 A. Those costs incurred but excluded from the FCC's end-user surcharge would have  
2 to be passed on to end-users, most likely as an increase in the monthly local rate.  
3 If the costs could not be passed onto the end-user, the RLEC would be forced to  
4 absorb these costs.

5 Q. **The FCC has issued a FNPRM seeking comment on whether it should reduce**  
6 **the current four business day porting interval for intermodal porting. What**  
7 **would happen to the costs on Exhibit 2 if the FCC ultimately rules that the**  
8 **porting interval should be shortened?**  
9

10 A. Although none of the RLECs have quantified the costs to shorten the porting in-  
11 terval, there is consensus within the LEC industry that reducing the porting inter-  
12 val for intermodal porting would significantly increase the costs associated with  
13 implementing wireless number portability. USTA informed the FCC that a reduc-  
14 tion in the porting interval for LECs would require LECs to reconfigure their net-  
15 works at a substantial cost. According to USTA, significant changes to ILECs'  
16 operational support systems and other systems would be required at a substantial  
17 cost.<sup>7</sup> According to Qwest, material changes to the current four-day porting inter-  
18 val would require substantial investment, costs and resources, both system and  
19 human, which would ultimately be recovered from consumers.<sup>8</sup> BellSouth con-  
20 tends that shortening the porting timeframe for intermodal porting would increase  
21 the costs associated with implementing number portability. Requiring carriers of

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<sup>7</sup> *In the Matter of Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Comments of the United States Telecom Association, CC-Docket No. 95-116, January 20, 2004, at page 6.

<sup>8</sup> *In the Matter of Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Comments of Qwest Corporation, CC-Docket No. 95-116, January 20, 2004, at pages 7-8.



1 different sizes and utilizing different systems to undergo extensive modifications  
2 to shorten the porting interval would be a significant financial commitment, which  
3 would necessitate appropriate cost recovery

4 Q. **Why is it important for the Commission to take the cost of a shortened port-**  
5 **ing interval into account?**  
6

7 A. The RLECs contend that the cost that would be incurred to reduce the porting in-  
8 terval could be significant. According to the Office of Advocacy, U.S. Small  
9 Business Administration, large wireline carriers estimate that the costs of recon-  
10 figuration could exceed \$100 million and the Office of Advocacy presumes the  
11 costs for small wireline carriers would be proportional.<sup>9</sup> The Commission cannot  
12 assess the potential total economic impact of LNP on end users without knowing  
13 whether the FCC will shorten the porting interval and if it does, what it may cost  
14 for the RLECs to meet the requirements.

15 Q. **Do you believe that the costs as determined in Exhibit 2 will create a signifi-**  
16 **cant adverse economic impact on users of telecommunication services if LNP**  
17 **is implemented?**  
18

19 A. Yes, it would be a very significant impact on customers. I contend that when the  
20 Commission considers the initial and on-going costs of LNP, the Commission will  
21 determine that such costs create a significant adverse economic impact on users of  
22 telecommunications services. FCC rules allow recovery of certain LNP costs  
23 from carriers or from end users through a monthly surcharge imposed over a five-

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<sup>9</sup> *In the Matter of Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Reply Comments of the Office of Advocacy, U.S. Small Business Administration on the Further Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis, CC Docket No. 95-116, February 4, 2004, at page 9.

1 year recovery period.<sup>10</sup> Certain costs associated with LNP cannot be recovered  
2 through the end user LNP surcharge or carrier charges. These costs must be re-  
3 covered, if at all, through the LEC's general rates and charges.

4 These costs will be imposed on end-users who have not requested LNP, but not  
5 on the cost causer. This estimated increase in the local service cost do not include  
6 any cost associated with the provision of transporting calls to ported numbers out-  
7 side of RLEC's local service areas. This cost recovery will have a significant ad-  
8 verse economic impact on users of telecommunications service in the RLEC's  
9 service area.

10 Additional unknown costs of LNP could increase the financial burden. The costs  
11 as set forth in Exhibit 2 do not include any cost associated with reducing the port-  
12 ing interval as contemplated by the FCC in its FNPRM. Such reductions of the  
13 porting interval may require the RLECs to make significant changes to its opera-  
14 tions thereby increasing the cost to provide LNP.<sup>11</sup>

15 Q. **Could the implementation of LNP be unduly economically burdensome for**  
16 **the RLECs?**

17  
18 A. Yes, implementation of LNP will be unduly economically burdensome for the  
19 RLECs. Any costs not recovered through the end-user LNP charge or carrier  
20 charge may have to be borne by the RLECs.

---

<sup>10</sup> 47.C.F.R. § 52.33.

<sup>11</sup> FNPRM, para 45.

1 The estimated costs of LNP, set forth in Exhibit 2, are presented on a per-line ba-  
2 sis. However, there is no certainty that all of the LNP costs will be paid by cur-  
3 rent subscribers of each of the RLECs. As discussed previously in my testimony,  
4 there are potential issues concerning which costs will be borne directly by the cus-  
5 tomer and which costs will be borne by the RLECs. Further, based upon the sub-  
6 stantial increase in the cost per line per month caused by LNP, there is no guaran-  
7 tee that all such costs would ultimately be passed on to the end-user in the form of  
8 a rate increase. The potential costs that may be incurred by the RLECs would be  
9 unduly economically burdensome.

10 As shown, LNP implementation could result in the assessment of a new LNP sur-  
11 charge on the RLECs' telephone subscribers and could increase local rates. These  
12 actions would make the RLECs' service offering less competitive with the ser-  
13 vices provided by wireless carriers. Wireless carriers already enjoy a number of  
14 competitive advantages over wireline carriers. For example, because of their FCC  
15 licensed service areas, wireless carriers have larger local calling areas, larger ser-  
16 vice territories, and more potential customers to absorb the cost of LNP. By in-  
17 creasing the cost of service, LNP would make wireline service less competitive  
18 with wireless service.

19 If all of the LNP costs were assigned completely to the RLECs' subscribers, in-  
20 cluding the cost of transport and the cost of systems upgrades to reduce the port-  
21 ing interval, the large size of the surcharge may cause a segment of the RLECs'  
22 customers to discontinue service. The reduction in line count would not allow for

1 the full recovery of LNP costs, causing a negative impact on the RLECs' revenue,  
2 and would lay the foundation for an ever-escalating burden on the remaining  
3 RLEC subscribers to fund common network costs.

4 Q. **Does this conclude your testimony?**

5 A. Yes, it does.

**Kennebec Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 47,979	
Internal Business Procedure Changes (1)	\$ 20,426	
Intercarrier Testing	\$ 4,088	
Other Internal Costs (2)	\$ 25,061	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 825	
Total Non-recurring Costs excluding transport	\$ 98,569	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 99,970	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 90	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 141	
Total Recurring Monthly Costs excluding Transport	\$ 381	
Transport	\$ 4,837	
Total Recurring Monthly Costs including Transport	\$ 5,218	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,155	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,186	
Total cost per month excluding transport	\$ 2,536	
Total cost per month including transport	\$ 7,404	
Access Lines excluding Lifeline	735	
LNP cost per line per month excluding transport (5)	\$ 3.45	\$ 3.97
LNP cost per line per month including transport (5)	\$ 10.07	\$ 11.58

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**Beresford Municipal Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 16,612	
Internal Business Procedure Changes (1)	\$ 11,962	
Inter-carrier Testing	\$ 5,299	
Other Internal Costs (2)	\$ 20,723	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 1,119	
Total Non-recurring Costs excluding transport	\$ 55,905	
Non-recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 57,306	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 135	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 293	
Total Recurring Monthly Costs excluding Transport	\$ 578	
Transport	\$ 1,926	
Total Recurring Monthly Costs including Transport	\$ 2,504	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,222	
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,253	
Total cost per month excluding transport	\$ 1,800	
Total cost per month including transport	\$ 3,757	
Access Lines excluding Lifeline	1,418	
LNP cost per line per month excluding transport (5)	\$ 1.27	\$ 1.46
LNP cost per line per month including transport (5)	\$ 2.65	\$ 3.05

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**Midstate Communications, Inc.****Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 82,110	
Internal Business Procedure Changes (1)	\$ 3,229	
Intercarrier Testing	\$ 4,247	
Other Internal Costs (2)	\$ 19,474	
LNP Query set up	\$ 1,900	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 2,434	
Total Non-recurring Costs excluding transport	\$ 113,394	
Non recurring transport charges (4)	\$ 3,870	
Total Non-recurring Costs including transport	\$ 117,264	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ -	
LNP Query Costs per month	\$ 1,500	
Other Recurring Costs	\$ 788	
Total Recurring Monthly Costs excluding Transport	\$ 2,288	
Transport	\$ 7,749	
Total Recurring Monthly Costs including Transport	\$ 10,037	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,480	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,564	
Total cost per month excluding transport	\$ 4,768	
Total cost per month including transport	\$ 12,601	
Access Lines excluding Lifeline	4,762	
LNP cost per line per month excluding transport (5)	\$ 1.00	\$ 1.15
LNP cost per line per month including transport (5)	\$ 2.65	\$ 3.04

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Local Trunking between sutending end-offices and Midstate's tandem location

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**Western Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 145,987	
Internal Business Procedure Changes (1)	\$ 8,589	
Intercarrier Testing	\$ 1,970	
Other Internal Costs (2)	\$ 19,062	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 982	
Total Non-recurring Costs excluding transport	\$ 176,780	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 178,181	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 135	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 134	
Total Recurring Monthly Costs excluding Transport	\$ 419	
Transport	\$ 4,996	
Total Recurring Monthly Costs including Transport	\$ 5,415	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 3,866	
Total Nonrecurring cost per month including transport amortized over five years	\$ 3,896	
Total cost per month excluding transport	\$ 4,285	
Total cost per month including transport	\$ 9,311	
Access Lines excluding Lifeline	1,080	
LNP cost per line per month excluding transport (5)	\$ 3.97	\$ 4.56
LNP cost per line per month including transport (5)	\$ 8.62	\$ 9.91

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.



**RC Communications Inc./Roberts County Telephone**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 29,900	
Internal Business Procedure Changes (1)	\$ 15,318	
Inter-carrier Testing	\$ 4,915	
Other Internal Costs (2)	\$ 22,319	
LNP Query set up	\$ 380	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 1,367	
Total Non-recurring Costs excluding transport	\$ 74,199	
Non recurring transport charges (4)	\$ 2,801	
Total Non-recurring Costs including transport	\$ 77,000	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 180	
LNP Query Costs per month	\$ 300	
Other Recurring Costs	\$ 400	
Total Recurring Monthly Costs excluding Transport	\$ 880	
Transport	\$ 9,967	
Total Recurring Monthly Costs including Transport	\$ 10,847	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,623	
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,684	
Total cost per month excluding transport	\$ 2,503	
Total cost per month including transport	\$ 12,531	
Access Lines excluding Lifeline	2,037	
LNP cost per line per month excluding transport (5)	\$ 1.23	\$ 1.41
LNP cost per line per month including transport (5)	\$ 6.15	\$ 7.07

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

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(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA  
COLORADO, MONTANA, WYOMING & MINNESOTA

May 28, 2004

**RECEIVED**

JUN 01 2004

**NEXT DAY DELIVERY  
CONFIDENTIAL INFORMATION  
ENCLOSED**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 E Capitol Avenue  
Pierre SD 57501

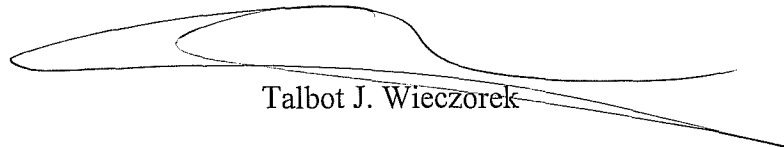
RE: In the Matter of Local Number Portability Obligations Docket No. TC 04-025;  
TC04-038; TC04-044 through TC04-056; TC04-060 through TC04-062;  
TC04-077; TC04-084 and TC04-085

Dear Ms. Bonrud:

Enclosed for filing please find the original and ten copies of Direct Testimony of Ron Williams with exhibits. Please note that Williams' Direct – Exhibit 5, both pages A and B, is marked "confidential" and has been placed in a sealed envelope marked "Confidential." Exhibit 5 contains confidential information provided by the Petitioners during discovery and should be treated as confidential information pursuant to ARSD 20:10:01:41.

If you have any questions, please call me.

Sincerely,



Talbot J. Wieczorek

TJW:klw

Enclosures

c: Western Wireless, Inc.  
Richard Coit  
Darla Pollman Rogers  
Jeff Larson  
David Gerdes  
Richard Helsper  
Ben Dickens  
James Cremer

**BEFORE THE PUBLIC UTILITIES COMMISSION**

**OF THE STATE OF SOUTH DAKOTA**

**RECEIVED**

**JUN 01 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**IN THE MATTER OF THE PETITIONS FOR  
SUSPENSION OR MODIFICATION OF  
§251(b)(2) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED**

)  
) **Dockets:** TC04-025 TC04-038  
) TC04-044 TC04-045  
) TC04-046 TC04-047  
) TC04-048 TC04-049  
) TC04-050 TC04-051  
) TC04-052 TC04-053  
) TC04-054 TC04-055  
) TC04-056 TC04-060  
) TC04-061 TC04-062  
) TC04-077 TC04-084  
) TC04-085

**TESTIMONY**

**OF**

**RON WILLIAMS**

**ON BEHALF OF WWC LICENSE L.L.C.  
(WESTERN WIRELESS)**

**May 28, 2004**

**DOCKET TC04-025 et al**

**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

**I. QUALIFICATIONS AND PURPOSE OF TESTIMONY**

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

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

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

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

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

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

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

A. I am testifying on behalf of WWC License L.L.C. ("Western Wireless"), which provides commercial mobile radio services ("CMRS") in the state of South Dakota.

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

A. I have ten years experience working for GTE (now Verizon), including six years in telephone operations and business development, and four years in cellular operations. I also have two years experience in start-up CLEC operations with FairPoint Communications. Since August 1999, I have worked for Western Wireless, first as

**DOCKET TC04-025 et al**

**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 the Director of CLEC operations and, more recently, in my current position in  
2 Industry Relations and as a project lead for implementation of LNP and  
3 interconnection with other carriers.

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

5 A. Yes, I have testified as the Company's witness in interconnection arbitration  
6 proceedings in Oklahoma and Utah. I have prefiled testimony in a South Dakota  
7 arbitration that was settled prior to hearings. And, recently, I have testified in LNP  
8 suspension matters in New Mexico and Missouri.

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

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

- 13       ▪ **What are the obligations of Petitioners' to implement LNP and what are**  
14       **the standards for granting relief?**
- 15       ▪ **Are there any real operational or technical roadblocks to Petitioners'**  
16       **implementation of number portability as required by FCC rules?**
- 17       ▪ **Is there any evidence of undue economic burden associated with**  
18       **Petitioners' implementation of local number portability?**
- 19       ▪ **What is the economic impact of delaying Petitioners' implementation of**  
20       **number portability?**
- 21       ▪ **Do Petitioners' make a valid claim that LNP in their service area is not in**  
22       **the public interest?**

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

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**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 to a determination, and recommend to the South Dakota Public Utilities Commission  
2 ("Commission") an appropriate resolution.

3 **Q. DO YOU HAVE ANY BACKGROUND OR FAMILIARITY WITH WESTERN WIRELESS'**  
4 **SYSTEM IN SOUTH DAKOTA AND ANY FAMILIARITY WITH THE PETITIONERS'**  
5 **SYSTEMS IN THE STATE?**

6 A. Yes. I have been actively involved in negotiation of interconnection agreements with  
7 most, if not all, of the Petitioners in this case on behalf of Western Wireless.

8 **Q. IS THERE A JURISDICTION ISSUE REGARDING WAIVERS TO LNP**  
9 **IMPLEMENTATION?**

10 A. I cannot give a legal opinion, but I do believe there is an issue as to whether  
11 jurisdiction for LNP implementation waivers is in the FCC or state commissions. It is  
12 my understanding that the FCC's intermodal porting order requires rural ILECs to file  
13 any requests for waiver or extension with the FCC, not individual state commissions.  
14 The FCC asserted jurisdiction over all issues related to CMRS number portability by  
15 citing its authority under Sections 1, 2, 4(i) and 332 of the Communications Act.<sup>1</sup> I  
16 know that many rural ILECs applied to the FCC for a waiver, and the waiver was  
17 granted in January this year. I am attaching the FCC order on rural intermodal LNP  
18 implementation as Exhibit Williams' Direct -1. The instant case before the South  
19 Dakota Commission raises the same issues that have been addressed by the FCC  
20 under its jurisdiction.

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

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<sup>1</sup> *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*")

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**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 A. Yes. Within the last couple of weeks the FCC issued two orders denying LNP  
2 implementation suspensions for rural wireless and rural wireline carriers. In an order  
3 released May 10, 2004 the FCC denied waiver and extension requests for three rural  
4 wireless carriers who had claimed they did not receive sufficient notice to implement  
5 and their rural status constituted special circumstances.<sup>2</sup> Similarly, on May 13, 2004  
6 the FCC denied a waiver petition for temporary suspension made by North-Eastern  
7 Pennsylvania Telephone Company (NEP); a rural LEC with eight exchanges.<sup>3</sup> NEP  
8 is planning to implement LNP in conjunction with a switch replacement and argued  
9 that “it did not anticipate that intermodal porting would be an “imminent”  
10 requirement until the Commission’s Intermodal LNP Order released in November  
11 2003.” NEP also stated that service feature issues arose during implementation  
12 planning that would mean that NEP would not meet the May 24, 2004 deadline for  
13 LNP implementation. In denying NEP request, the FCC responded:

14 “We are not persuaded by NEP’s claims that special circumstances exist  
15 warranting a waiver of the May 24, 2004 porting deadline in order to  
16 accommodate NEP’s switch delivery and deployment schedule, and  
17 provide additional time to resolve any service feature issues. We find  
18 that NEP has not presented “extraordinary circumstances beyond its  
19 control in order to obtain an extension of time.” NEP has not shown that

---

<sup>2</sup> 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).

<sup>3</sup> Exhibit Williams’ Direct -2: 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).

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**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 challenges it may face are different from those faced by similarly  
2 situated carriers who are able to comply. Generalized references to  
3 limited resources and implementation problems do not constitute  
4 substantial, credible evidence justifying an exemption from the porting  
5 requirements. NEP has known since 1996 that it would need to support  
6 LNP within six months of a request from a competing carrier. Although  
7 wireless LNP was delayed, all carriers have been on notice since July  
8 2002 that wireless and intermodal LNP would become available  
9 beginning in November 2003. Thus, NEP has had sufficient time to  
10 follow through with these mandates and prepare for LNP.”<sup>4</sup>

11 In this situation, which is very similar to the instant petitions, the FCC decision  
12 delivered a clear and consistent message: The standards are very high for obtaining a  
13 waiver of LNP obligations, the onus is on individual carriers to do all in their power  
14 to meet the obligations, and difficulties which are similar to those faced by other  
15 carriers do not constitute special circumstances worthy of any suspension. LNP is an  
16 FCC mandate and it is clear the FCC expects enforcement of its implementation.

17 **II. WHAT IS THE OBLIGATION OF PETITIONERS TO IMPLEMENT LNP**  
18 **AND WHAT ARE THE STANDARDS FOR GRANTING RELIEF?**

19 Q. ARE PETITIONERS UNDER AN AFFIRMATIVE OBLIGATION TO  
20 IMPLEMENT LNP?

21 A. Yes. All LECs have known since 1996 that they would be required to provide LNP.  
22 Section 251(b)(3) of the Communications Act of 1934, as amended (“Act”), requires  
23 all LECs to provide LNP.<sup>5</sup> In its rules implementing the LNP requirements of the  
24 Act, the FCC recognized that the public interest would be served by requiring carriers

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<sup>4</sup> See supra ¶10

<sup>5</sup> 47 U.S.C. § 251(b)(3).



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**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 to implement LNP in all areas, but conditioned the requirement to implement LNP in  
2 rural areas on a carrier receiving a bona fide request (“BFR”) from another carrier.<sup>6</sup>

3 **Q. DID WESTERN WIRELESS SEND A BFR TO ANY OF THE PETITIONERS REQUESTING**  
4 **THE IMPLEMENTATION OF LNP?**

5 A. Yes. In November 2003 Western Wireless sent all but three of the Petitioners,  
6 Western, Splitrock Properties and Tri-County, a BFR to implement LNP.<sup>7</sup> Western  
7 Wireless’ lawful request to implement LNP provided these carriers with more than 6  
8 months notice to deploy Local Number Portability. These telcos waited 4 months to  
9 seek a suspension of their LNP obligations, hopeful that this tactic would result in  
10 delay of their legal obligations.

11 **Q. WHAT IS THE STANDARD FOR GRANTING THE PETITIONERS’ REQUEST FOR A**  
12 **SUSPENSION OF THEIR LNP OBLIGATIONS?**

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

16 to the extent that, and for such duration as, the State commission  
17 determines that such suspension or modification —  
18 (A) is necessary: (i) to avoid significant adverse impact on users of  
19 telecommunications services generally; (ii) to avoid imposing a  
20 requirement that is unduly economically burdensome; or (iii) to  
21 avoid imposing a requirement that is technically infeasible; and  
22 (B) is consistent with the public interest, convenience, and  
23 necessity.<sup>8</sup>  
24

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<sup>6</sup> 47 C.F.R. § 52.26.

<sup>7</sup> Exhibit Williams’ Direct -3

<sup>8</sup> 47 U.S.C. § 251(f)(2).

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TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS

1 "Congress intended exemption, suspension, or modification of the section 251  
2 requirements to be the exception rather than the rule.... We believe that Congress did  
3 not intend to insulate smaller or rural LECs from competition."<sup>9</sup>

4 **Q. IF CONGRESS DID NOT INTEND TO INSULATE RURAL TELEPHONE COMPANIES**  
5 **FROM COMPETITION, THEN HOW SHOULD THIS COMMISSION DETERMINE**  
6 **WHETHER OR NOT TO SUSPEND THE PETITIONERS' LNP OBLIGATIONS?**

7 A. Each Petitioner bears the burden of demonstrating that it meets the statutory standard  
8 for a suspension of its LNP obligations. Although Section 251(f) of the Act provides  
9 that rural carriers may obtain a suspension of their LNP obligations, the FCC has  
10 concluded that a suspension is only appropriate under unique and compelling  
11 circumstances:

12 Thus, we believe that, in order to justify continued exemption once a  
13 bona fide request has been made, or to justify suspension or  
14 modification of the Commission's section 251 requirements, a LEC  
15 must offer evidence that application of those requirements would be  
16 likely to cause undue economic burdens beyond the economic burdens  
17 typically associated with efficient competitive entry. State  
18 commissions will need to decide on a case-by-case basis whether such  
19 a showing has been made.<sup>10</sup>

20 **Q. IN THE ABSENCE OF THE IMPLEMENTATION DELAY ALREADY GRANTED TO**  
21 **RURAL LECs BY THE FCC, WHAT ARE THE PREVAILING GUIDELINES FOR**  
22 **IMPLEMENTATION OF LNP AND HOW DO THEY RELATE TO THE PETITIONERS'**  
23 **SITUATION?**

24 From the exhibits provided with the Petitions, it is apparent that most ILEC networks  
25 require only switch software upgrades and table translations to make them LNP  
26 capable. The FCC produced guidelines that suggest this type of upgrade can be

---

<sup>9</sup> *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*").

<sup>10</sup> *LNP First Report and Order* at 16118.

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**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 completed within 60 days. Local Number Portability requirements were established  
2 for all LECs in Section 251(b)(3) of the Telecom Act in 1996<sup>11</sup>. Specific to the  
3 Petitioners in this case, the FCC conditioned the requirement to implement LNP in  
4 rural areas on a carrier receiving a BFR from another carrier.<sup>12</sup> While a rural carrier  
5 has six months from receipt of a BFR to implement LNP, the FCC guidelines for  
6 switch preparation indicate a much shorter time may be necessary:<sup>13</sup>

7 After the deadline for deployment of number portability in an MSA in  
8 the 100 largest MSAs, according to the deployment schedule set forth  
9 in the appendix to this part, a LEC must deploy number portability in  
10 that MSA in additional switches upon request within the following  
11 time frames:

- 12 (A) For remote switches supported by a host switch equipped for  
13 portability ("Equipped Remote Switches"), within 30 days;
- 14 (B) For switches that require software but not hardware changes to  
15 provide portability ("Hardware Capable Switches"), within 60  
16 days;
- 17 (C) For switches that require hardware changes to provide  
18 portability ("Capable Switches Requiring Hardware"), within  
19 180 days;
- 20 (D) For switches not capable of portability that must be replaced  
21 ("Non Capable Switches), within 180 days.

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

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<sup>11</sup> 47 U.S.C. § 251(b)(3).

<sup>12</sup> 47 C.F.R. § 52.23(c).

<sup>13</sup> 47 C.F.R. § 52.23(b)(2)(iv).

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1 The FCC reiterated this rule with respect to intermodal LNP on November 10, 2003

2 (Attached as Exhibit Williams' Direct -4):

3 "Therefore for wireline carriers operating in areas outside of the 100  
4 largest MSAs, we hereby waive, until May 24, 2004, the requirement  
5 that these carriers port numbers to wireless carriers that do not have a  
6 point of interconnection or numbering resources in the rate center  
7 where the customer's wireline number is provisioned."<sup>14</sup>

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

10 "Accordingly, IT IS ORDERED that, pursuant to authority contained  
11 in sections 1, 4(i), 251, and 332 of the Communications Act of 1934,  
12 as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, we GRANT a limited  
13 waiver of the wireline-to-wireless porting requirement, until May 24,  
14 2004, for local exchange carriers with fewer than two percent of the  
15 nation's subscriber lines in the aggregate nationwide that operate in the  
16 top 100 Metropolitan Statistical Areas and have not received a request  
17 for local number porting from either a wireline carrier prior to May 24,  
18 2003 or a wireless carrier that has a point of interconnection or  
19 numbering resources in the rate center where the customer's wireline  
20 number is provisioned."<sup>15</sup>

21 There is nothing vague or indefinite about the LNP obligations imposed on the  
22 Petitioners. This eventuality has been foreseeable for the eight years since the  
23 Telecom Act was passed in February 1996. The specific expectations of Western  
24 Wireless' porting interest have been known for more than 6 months since eighteen of

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<sup>14</sup> 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*)

<sup>15</sup> 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 Williams' Direct -1)

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1       them received BFRs from Western Wireless. The FCC released its *Intermodal*  
2       *Porting Order* more than 6 months ago. With all this advance public notice it is  
3       inconceivable that the Petitioners would not be prepared to implement LNP. Clearly,  
4       the time that has already been provided to these Petitioners should have been  
5       sufficient time to meet their obligations.

6       **Q.     SHOULD THE FACT THAT MANY SIMILARLY SITUATED LECS ARE NOT SEEKING A**  
7       **DELAY OR SUSPENSION OF LNP IMPLEMENTATION MERIT CONSIDERATION IN**  
8       **THIS PROCEEDING?**

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

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

16       A.     Yes. I am not familiar with all state commissions, but I do understand that the  
17       Pennsylvania Commission concluded that “rural residents have as much right to  
18       competitive choices as their more numerous urban counterparts” and that as a result,  
19       rural LEC suspension Petitioners “must present competent evidence that such relief is  
20       necessary under Section 251(f)(2).”<sup>16</sup> In response to requests for suspension of LNP

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<sup>16</sup> *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).

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obligations, several state commissions have rejected rural LEC technical and/or financial arguments in support of their LNP suspension requests.<sup>17</sup> Notably, the Michigan Public Service Commission denied LNP suspension to two small rural LECs stating:

“The Commission is unconvinced that the burdens will disproportionately affect the Petitioners as compared with other carriers. Indeed, the Petitioners have been on notice since 1996 to prepare for implementation of LNP and replacement of new switches should have been completed prior to the implementation date .... Any deferment of the FCC’s number portability requirements beyond that time [May 24, 2004] would be anti-competitive and anti-consumer.”<sup>18</sup>

Although the Petitioners have sought relief from number portability requirements through this proceeding, there is no reason why the competitive choice, enabled by number portability, and already available to most people in South Dakota, should be delayed for the Petitioners’ customers.

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

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<sup>17</sup> 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.

<sup>18</sup> 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.)

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1 A. Yes. Texas is a good example. The Texas Commission Staff was actively involved  
2 in negotiating with rural telephone companies to shorten or withdraw their suspension  
3 requests. The Staff was successful in resolving all ten original petitions<sup>19</sup> but not  
4 before they submitted the following testimony in the docket:

5 "I recommend the denial of the petitions of Valor and KTC to suspend  
6 implementation until March 15, 2005 of the FCC's Intermodal Order ...  
7 I have determined that the Companies have failed to provide sufficient  
8 information and demonstrate the stated factors pursuant to FTA  
9 §251(f)(2) to justify an extension ... The Companies further failed to  
10 demonstrate that implementation of intermodal LNP prior to March 15,  
11 2005 would be inconsistent with the public interest, convenience and  
12 necessity of Texas customers. I further conclude that the Companies  
13 have failed to take steps to comply with the Intermodal Order in a timely  
14 manner after receiving bona fide requests (BFR) for intermodal porting.  
15 As a consequence I recommend that the Companies be held accountable  
16 for non-compliance with FTA § 251(f)(2), if they are not LNP capable  
17 by May 24, 2004. Thus, the Companies would be subject to applicable  
18 FCC enforcement proceedings and/or state commission enforcement  
19 action, if applicable.<sup>20</sup>

20 **III. ARE THERE ANY REAL OPERATIONAL OR TECHNICAL ROADBLOCKS**  
21 **TO THE PETITIONERS' IMPLEMENTATION OF NUMBER**  
22 **PORTABILITY AS REQUIRED BY FCC RULES?**

23 **Q. WHAT HAVE THE PETITIONERS' IDENTIFIED AS ROADBLOCKS TO THE IMPLEMENTATION OF**  
24 **NUMBER PORTABILITY?**

25 A. In their Petitions and through discovery responses, the Petitioners have identified only  
26 a few technical or feasibility issue in the implementation of local number portability:

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<sup>19</sup> 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"

<sup>20</sup> 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 lines 5-21 and P 5 lines 1-8.

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- 1           ▪ The deadlines imposed for LNP implementation do not provide enough  
2           time to implement number portability under the FCC rules.
- 3           ▪ Routing local traffic to numbers that have been ported to wireless carriers  
4           (which has been mischaracterized as ‘location portability’) when there is  
5           no direct connection between the Petitioner network and the wireless  
6           carrier.
- 7           ▪ Uncertainty associated with obligations of intermodal LNP

8   **Q. DO THESE REPRESENT REAL BARRIERS TO COMPLETING IMPLEMENTATION OF**  
9   **NUMBER PORTABILITY OBLIGATIONS BY MAY 24, 2004?**

10   **A.** No. The Petitioners have introduced these challenges, which are faced by all carriers  
11       (wireline and wireless, urban and rural) implementing number portability, and have  
12       characterized them as impossible to overcome, “technically infeasible”, and/or  
13       representing “a potential waste of resources ...”. This is simply not the case.

14   **Q. WHAT ABOUT THE TECHNICALLY INFEASIBLE CLAIM?**

15   **A.** Other rural telephone companies do not concur in this: In recent testimony  
16       concerning an LNP suspension petition in New Mexico, Steven D. Metts, a witness  
17       co-sponsored by the New Mexico Exchange Carriers Group made the following  
18       responsive statement<sup>21</sup>:

19           Q.     “Is it your contention that suspension of the FCC requirements is based  
20           upon technological incapability for any of your companies?”

21           A.     “No.”

22       Some of the Petitioner’s also concur that the implementation of LNP is not infeasible.  
23       Beresford Telephone, in response to Western’s Discovery Request 9 made this  
24       statement when asked about the feasibility of routing calls to ported numbers when

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<sup>21</sup> New Mexico Case No. 04-00017-UT, Hearing Transcript Day 1, p 51 lines 10-13, April 6, 2004



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1 there is no direct connection between carriers: "...it is not "technically infeasible" to  
2 route such a call".

3 **Q. DOES THE INTERMODAL PORTING OF NUMBERS ORDERED BY THE FCC CONSTITUTE LOCATION**  
4 **PORTABILITY?**

5 A. No, it is not location portability. The intermodal number portability ordered by the  
6 FCC enables, for example, a residential LEC customer to substitute wireless service  
7 for LEC service at the same location where that customer receives landline service.  
8 This constitutes number portability, not location portability. Mr. Watkins' testimony  
9 exaggerates the circumstances but, in the end, concedes the FCC has already  
10 addressed this in the Intermodal Porting Order.<sup>22</sup>

11 **Q. WHAT ABOUT PETITIONERS' CONCERN REGARDING THE ROUTING OF TRAFFIC TO TELEPHONE**  
12 **NUMBERS THAT HAVE BEEN PORTED TO WIRELESS CARRIERS?**

13 A. The Petitioners imply that routing local traffic originating on their networks and  
14 destined for a number ported to a wireless carrier is a difficult and unprecedented  
15 requirement. This is not the case. There are economical ways to accomplish this at a  
16 small fraction of what the Petitioners claim for "transport" costs.

17 **Q. WHY ARE THE PETITIONERS RAISING A CONCERN REGARDING INTERMODAL PORTING AND THEIR**  
18 **LOCAL ROUTING OBLIGATIONS?**

19 A. Under some circumstances, when there is no physical interconnection between a LEC  
20 and a wireless carrier, the LEC will need to route a call to a ported number to the  
21 serving tandem. This is no different than the manner in which wireless carriers  
22 terminate calls to many LEC exchanges in South Dakota today.

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

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<sup>22</sup> Watkins' Direct p24 lines 5-7.

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1 A. A call that was local before a number ported would either not be completed or would  
2 be required to be dialed as a toll call after the number was ported. Imagine a scenario  
3 where your neighbor had to dial toll to reach your telephone number just because you  
4 changed your service provider. It would make no sense.

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

6 A. No. This practice is permitted under industry guidelines associated with the  
7 assignment of telephone numbers by the North American Numbering Plan  
8 Administrator (NANPA)<sup>23</sup>. In fact, Western Wireless has several implementations of  
9 this throughout its service area.

10 **Q. ARE THE PETITIONERS CONCERNS ABOUT THE UNCERTAINTY OF FUTURE FCC RULES ON LNP ANY**  
11 **DIFFERENT THAN THOSE FACED BY OTHER CARRIERS THAT ARE ALREADY IMPLEMENTING LNP?**

12 A. No. While there is some uncertainty in what the FCC will do in the future regarding  
13 compensation matters, there is no uncertainty about the rating and routing obligations  
14 relative to LNP. All carriers face these same hurdles: The rating of calls to a ported  
15 number must remain as they were prior to the number being ported. And, it is the  
16 originating carrier's responsibility to properly route traffic to a ported number. The  
17 FCC didn't mandate a method to accomplish these obligations because there is not  
18 just one way to overcome these hurdles.

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<sup>23</sup> The Central Office Code (NXX) Administration Guidelines (COAG), 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 is outside the rate center to which they are assigned.

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1           **IV. IS THERE ANY EVIDENCE OF UNDUE ECONOMIC BURDEN**  
2           **ASSOCIATED WITH PETITIONERS IMPLEMENTATION OF LOCAL NUMBER**  
3           **PORTABILITY?**

4           **Q. WHAT IS THE STANDARD FOR ESTABLISHING AN “UNDUE ECONOMIC BURDEN”?**

5           A. Section 251(f)(2) permits the Commission to suspend a LEC’s LNP obligation if such  
6           action is “necessary to avoid imposing a requirement that is unduly economically  
7           burdensome.”<sup>24</sup> The Ohio Commission has held that the statutory phrase, “unduly  
8           economically burdensome,” means economic burdens “beyond the economic burdens  
9           typically associated with efficient competitive entry.”<sup>25</sup> The facts contained in the  
10          Petitions do not meet the standard that would lead one to conclude the economic  
11          burden exceeds that ‘typically associated with efficient competitive entry.’

12          **Q. HAVE YOU HAD ANY EXPERIENCE IN DEALING WITH THE REAL LIFE COSTS OF**  
13          **LNP IMPLEMENTATION?**

14          A. Yes I have had experience implementing LNP on Western Wireless’ own network.  
15          This entailed the upgrading of switches, intergrating systems, implementing the LNP  
16          with a CLEC and providing for SOA and LNP queries. I worked on these issues from  
17          an operational, technical, and cost aspect.

18          **Q. ARE THE LNP COST PROJECTIONS IN THE PETITIONS A REASONABLE APPROXIMATION OF THE**  
19          **COSTS OF IMPLEMENTING LNP FOR THE PETITIONERS?**

20          A. The cost projections provided by the Petitioners grossly overstate the implementation  
21          and operational costs of LNP. Both non-recurring ‘start-up’ and monthly recurring

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<sup>24</sup> 47 U.S.C. § 251(f)(2)(A)(ii).

<sup>25</sup> *Western Reserve Petition* at 13.

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1 costs have been over estimated by the Petitioners; in some cases producing costs  
2 many times a realistic projection.

3 **Q. PLEASE PROVIDE EXAMPLES OF THE OVERSTATEMENT OF CLAIMED LNP IMPLEMENTATION COSTS.**

4 A. Although cost over-statements occur with most Petitioners in many cost categories,  
5 based on evidence provided to date, overstatements of non-recurring LNP  
6 implementation costs occur in the category "Other Internal Costs". In this category,  
7 the Petitioners have included costs to deal with "porting contracts" and costs related  
8 to the development of "Intercarrier Porting Forms". These costs are grossly  
9 overstated and, perhaps, should not be included at all: Contracts are not required for  
10 porting between carriers and there are standard industry 'porting' forms available to  
11 any carrier for a nominal fee. Some Petitioners have included fees for "SOA Non-  
12 recurring set up charge" or non-recurring "Service Order Administration" when  
13 estimated port volumes provide no justification for an automated SOA interface.  
14 Unfortunately, many of the Petitioners have not provided sufficient information in  
15 response to interrogatories to address the validity of switch upgrade cost claims at this  
16 time. They have instead claimed the cost information is confidential and have refused  
17 to provide it even though Western Wireless has executed a "confidentiality  
18 agreement."

19 **Q. PLEASE PROVIDE AN EXAMPLE OF THE OVERSTATEMENT OF CLAIMED LNP RECURRING COSTS.**

20 A. Many categories of recurring costs are overstated. These include: "SOA Monthly  
21 Charge" estimates that are based on a vendor quote for an automated interface with a  
22 high minimum monthly charge, "Other Recurring Costs" that are overstated based on  
23 Petitioner's own estimate of port volume, "Switch Maintenance Costs" which are not

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1 justified in relation to LNP, "Business Procedure" and porting process costs for  
2 testing, verification, translations, and administrative which appear to be overstated  
3 and redundant, and Marketing/Informational Flyer costs which are not justified on a  
4 recurring basis.

5 **Q. CAN YOU PROVIDE A SPECIFIC EXAMPLE OF OVERSTATED SOA COSTS?**

6 A. Yes. For example, Beresford Telephone has claimed a non-recurring charge of  
7 \$1,800 and a monthly recurring charge of \$1,200 for Service Order Administration  
8 (SOA) functionality. Beresford is claiming a total first year cost of \$30,600 for SOA.  
9 In response to discovery, Beresford estimated 24 ports per year. Beresford can utilize  
10 the Number Portability Administration Center (NPAC) Help Desk to perform the  
11 SOA function for these 24 ports for a total of \$360. Beresford has overstated first  
12 year SOA costs by more than 80 fold. This single cost overstatement results in an  
13 almost a dollar (\$.85) of claimed LNP cost per line per month. Most of the other  
14 Petitioners have similarly forecasted low porting volumes that do not justify an  
15 automated SOA interface and high minimum monthly recurring charges.

16 **Q. WHAT ABOUT PETITIONER CLAIMS FOR 'TRANSPORT' COSTS?**

17 A. In every instance that I have reviewed, the Petitioner has identified the most  
18 inefficient means of routing traffic to ported numbers as the basis for formulating  
19 start-up and recurring costs. The approach taken by the Petitioners produces costs  
20 that may be as high as 400 times the cost that an efficient operator would incur to  
21 accomplish their routing obligations for similar traffic. For example, West River  
22 Cooperative Telephone assumes the installation of more than 30 T1 circuits to route  
23 traffic in the first year of LNP implementation. West River also estimated 12

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1 customers will port each year. Assuming these porting customers to have average  
2 incoming call characteristics, Western Wireless estimates the cost of routing traffic to  
3 these ported numbers to be \$1,120 for the year including non-recurring charges.  
4 West River estimates these same costs to be more than \$467,000.

5 **Q. DO YOU HAVE ANY OTHER COMMENTS ON PROPOSED LNP 'TRANSPORT' COST RECOVERY?**

6 A. Yes. It is unclear that any of the costs included in this line item are recoverable under  
7 the FCC's rules pertaining to recovery via a line-item surcharge on local  
8 telecommunications customers. I believe the FCC views that it is the originating  
9 carrier's responsibility to deliver local traffic for termination and that the costs  
10 associated with fulfilling that responsibility are not a number portability cost.

11 **Q. HAVE YOU PREPARED ALTERNATIVE LNP COST ESTIMATES FOR THE PETITIONERS?**

12 A. Yes. Based on my experience with interconnection and with number portability, I  
13 have attached Exhibit Williams' Direct 5 which reflects the modifications to  
14 Petitioner costs consistent with my testimony.

15 **Q. I NOTE THAT WILLIAMS' DIRECT -5 IS BROKEN INTO TWO PAGES, ONE MARKED**  
16 **AS 5A AND ONE MARKED AS 5B. COULD YOU EXPLAIN THE DIFFERENCES ON**  
17 **THESE TWO PAGES?**

18 A: When the Petitioners in this case provided cost summaries, they did so in two  
19 separate formats. To assist in comparing the costs estimated on 5A and 5B with the  
20 Petitioner cost submissions, we maintained the two distinct formats and presented the  
21 revised estimates.

22 **Q. IN PREPARING WILLIAMS' DIRECT -5, WHAT INFORMATION DID YOU USE?**

23 A. For the most part, I used the same numbers as those being presented by the

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1       Petitioners. However, I have changed certain values to more reasonable and realistic  
2       amounts in those areas I have discussed in my testimony. These changes are based on  
3       my experience and also some of the other cost information the Petitioners submitted.  
4       Any number that I corrected in the cost estimate is highlighted on the exhibit for ease  
5       of comparison. In some cases I eliminated a cost. For example, I eliminated the  
6       switch maintenance cost because these costs already exist for the switches now being  
7       used and the fact that the new switch to be put in will be LNP compatible does not  
8       result in additional increase in these costs.

9       **Q.   YOU MENTIONED EARLIER IN YOUR TESTIMONY THAT IN EVERY INSTANCE THAT**  
10       **YOU HAVE REVIEWED IN THESE FILINGS THE PETITIONERS HAVE IDENTIFIED**  
11       **THE MOST INEFFICIENT MEANS OF ROUTING TRAFFIC TO PORTED NUMBERS AS A**  
12       **BASIS FOR THEIR LNP COST ESTIMATES. HOW IS IT INEFFICIENT?**

13      **A.**     The routing methods proposed by the Petitioners are inefficient in that they make  
14       little or no utilization of existing equipment and shared facilities currently used to  
15       exchange calls with other carriers. A more efficient and less costly mechanism for  
16       establishing routing for LNP is illustrated in Exhibit Williams' Direct - 6.

17      **Q.   WHAT IS YOUR RECOMMENDATION ON PETITIONERS' CLAIMS THAT THE COST OF LNP**  
18       **IMPLEMENTATION IS UNDULY BURDENSOME?**

19      **A.**     The bar has been set very high for granting an exception on the basis of the costs of  
20       implementing local number portability. The Petitioner cost exhibits include inflated  
21       costs that don't stand-up to scrutiny. The Petitioners have failed to demonstrate their  
22       costs are unduly burdensome. Neither have they demonstrated that their costs are any  
23       different than other rural wireless and wireline carriers that are or have implemented  
24       number portability.

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1       V.     **WHAT IS THE ECONOMIC IMPACT OF DELAYING PETITIONERS'**  
2                   **IMPLEMENTATION OF NUMBER PORTABILITY?**

3     Q.     PETITIONERS IMPLY THAT SIGNIFICANT NUMBER PORTABILITY INVESTMENT RISK WILL BE AVOIDED  
4             BY DELAYING IMPLEMENTATION. IS THERE MERIT TO THESE ASSERTIONS?

5     A.     No, the implementation cost information provided for the Petitioners indicates that  
6             there is little or no investment that would be avoided by delaying implementation of  
7             number portability.

8     Q.     EXPLAIN THE EVIDENCE THAT DEMONSTRATES THE LNP INVESTMENT RISK IS LOW?

9     A.     The data presented by the Petitioners lead to the conclusion that granting a delay in  
10            implementation of number portability will not have a material impact on the  
11            investments required. The nature of the LNP implementation and operational cost  
12            provided in the Petitions is predominately related to network investments, basic port  
13            process development, and port-driven variable costs. These are not costs that are at  
14            risk to any foreseeable change in LNP capability requirements. They do not reflect  
15            the potential for reduction at a later time. The transport cost category is so  
16            misconstrued and overstated by the Petitioners that it is meaningless. If routing costs  
17            were properly identified, they would amount to a small fraction of LNP costs and  
18            would not be of material impact.

19    Q.     SO, WILL A DELAY SAVE ANY LNP INVESTMENTS?

20    A.     No. The investments required by Petitioners will not be reduced by delaying their  
21            obligation to implement LNP. The risk for each of the Petitioners is no more than the  
22            investment risk made by any other carrier who has implemented local number  
23            portability. A delay only serves to deny those competitive carriers that have made



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1 LNP investments the opportunity to leverage that investment in Petitioner serving  
2 areas.

3 **Q. DO THE PETITIONERS' HAVE LNP ROUTING OBLIGATIONS THAT TRANSCEND ANY SUSPENSION OF**  
4 **INTERMODAL LNP IMPLEMENTATION?**

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

7           Regardless of the status of a carrier's obligations to provide number  
8           portability, all carriers have the duty to route calls to ported numbers.  
9           In other words, carriers must ensure that their call routing procedures  
10          do not result in dropped calls to ported numbers."<sup>26</sup>

11 Granting any further delay to these Petitioners would seem to exacerbate their  
12 problem with respect to routing obligations. Many of the Petitioners provide service  
13 in local calling areas that are common to a Qwest rate center (e.g., James Valley's  
14 Frederick and Mellett exchanges have a local calling area shared with Qwest's  
15 Aberdeen rate center) that will have number portability implemented on or before  
16 May 24, 2004. In the event a number is ported in the Aberdeen rate center, the FCC  
17 has made it clear that a carrier is still obligated to route calls to ported numbers.

18 **Q. DOES THE FACT THAT THE PETITIONERS ARE NOT IMPLEMENTING LNP LIMIT**  
19 **WIRELESS TO WIRELESS NUMBER PORTABILITY?**

20 A. Yes. Since the beginning of the wireless industry, wireless carriers have used number  
21 assigned to them by LECs. These numbers appear in industry routing guides as if  
22 they were affiliated with the LEC switch instead of the wireless carrier's switch. In  
23 these instances, a wireless customer cannot port their wireless number to another

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<sup>26</sup> 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.

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1 wireless provider unless the LEC is LNP compliant and participates in the port. In  
2 South Dakota, there are at least five thousand Western Wireless numbers that would  
3 fall into this category and other wireless carriers in South Dakota would also likely  
4 have as many numbers that would fall subject to this problem.

5 **VI. DO PETITIONERS MAKE A VALID CLAIM THAT LNP IS NOT IN THE**  
6 **PUBLIC INTEREST IN THEIR SERVICE AREAS?**

7 **Q. DO THE PETITIONERS' CLAIMS 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 South Dakota. Qwest 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 has ordered to happen on  
12 May 24, 2004. Instead of just adding more competitors to South Dakota's urban  
13 markets, intermodal LNP enables wireless carriers to compete effectively for  
14 customers in areas that have not previously been exposed to competition.

15 **Q. HAS THE FCC MADE ANY RECENT COMMENTS WITH RESPECT TO THE PUBLIC INTEREST AND THE**  
16 **IMPLEMENTATION OF LNP IN RURAL AREAS?**

17 A. Yes. On May 6, 2004, K. Dane Snowden, Chief of the Consumer & Governmental  
18 Affairs Bureau, issued a letter to the President of NARUC. The letter asked NARUC  
19 to encourage state commissions to ensure that waivers are only granted "where  
20 carriers demonstrate undue economic burden or technological infeasibility and, in  
21 reference to the waiver obligations of Section 251(f) of the Act:

22 "strictly apply that statutory standard so that rights of consumers  
23 are protected. I encourage the State commissions to ensure that  
24 carriers seeking waivers demonstrate that they are on a path to

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1 compliance so that customers of these carriers will not be forever  
2 denied the rights their fellow consumers enjoy.”<sup>27</sup>

3 **Q. IS THERE ANY REASON WHY THE COMPETITIVE CHOICE, ENABLED BY NUMBER PORTABILITY, AND**  
4 **ALREADY AVAILABLE TO MOST SOUTH DAKOTANS, SHOULD BE DELAYED FOR THE CUSTOMERS OF**  
5 **THESE PETITIONERS?**

6 **A. No.**

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

9 **A. Yes, many industry watchers are projecting that intermodal number portability will**  
10 **open the door to increased competition and accelerated substitution of wireless for**  
11 **wireline services. Here are some excerpts of a Cato Industry report summarizing the**  
12 **impact of wireless substitution<sup>28</sup>: “Wired Magazine recently reported that roughly**  
13 **3% of homes have dropped their landlines and 8% are expected to follow suit in the**  
14 **next five years.” “A more recent study by PriMetrica, Inc. suggested that roughly**  
15 **half of U.S. households would be willing to dump wireline for cellular ...”. “And**  
16 **now comes the number portability decision, which adds more fuel to the VoIP and**  
17 **wireless substitution fire. I think it will certainly increase the move toward**  
18 **substituting wireless for wire-line phones’ notes Rebecca Arbogast, an analyst with**  
19 **Legg Mason.” Finally, common sense tells us that demand for a service greatly**  
20 **increases once the service becomes available.**

21 **Q. HAS WESTERN WIRELESS MADE THE INVESTMENTS NECESSARY TO PROVIDE LNP IN SOUTH**  
22 **DAKOTA?**

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<sup>27</sup> Attached is Exhibit Williams’ Direct - 7, a copy of the correspondence from the Bureau Chief of the FCC Consumer & Governmental Affairs Bureau to the President of NARUC.

<sup>28</sup> “Number Portability Adds to Wireline Telecom Sector’s Perfect Storm,” Adam Thierer, Director of Telecommunication Studies, Cato Institute, Issue 66, November 20, 2003.

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1 A. Yes. We have upgraded our network, implemented new processes, systems, and  
2 hired supporting resources to implement LNP in South Dakota. In other words, we  
3 have absorbed the costs of implementing LNP under our FCC obligations. Further,  
4 we believe it is unfair that carriers who we compete with, that are similarly obligated,  
5 would be exempted from their obligations and thereby limit our ability to recoup the  
6 LNP investments we have made by restricting our opportunity to leverage those  
7 investments in a competitive marketplace.

8 **Q. HAVE THE PETITIONERS MET THE PUBLIC INTEREST STANDARD FOR GRANT OF A SUSPENSION OF**  
9 **LNP OBLIGATIONS?**

10 A. No. The public interest would not be served by suspending these Petitioners' LNP  
11 obligations. Section 251(f)(2) of the Act requires the Commission to determine that  
12 suspension of a carrier's LNP obligations would be "consistent with the public  
13 interest, convenience, and necessity."<sup>29</sup> The provision of LNP by LECs is a critical  
14 component of a competitive local telephone market. Rural consumers are  
15 increasingly choosing wireless service for their telecommunications needs and may  
16 choose to port their wireline number to Western Wireless upon the implementation of  
17 number portability as mandated by the Federal Communications Commission. The  
18 FCC has observed that the inability of customers to retain their telephone numbers  
19 when changing local service providers hampers the development of local competition:

20 Section 251(b)(2) removes a significant barrier to completion by  
21 ensuring that consumers can change carriers without forfeiting their  
22 existing telephone numbers.<sup>30</sup>

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<sup>29</sup> 47 U.S.C. § 251(f)(2)(B).

<sup>30</sup> Third LNP Order, 13 FCC Rcd 11701, 11702-04 ¶¶ 3-4 (1998)

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1 The fact is, number portability has proven to be an enabler of competition wherever it  
2 has been implemented. The bona fide request process for local number portability  
3 has led to an opportunity for increased competition in rural South Dakota markets on  
4 May 24, 2004, (i.e., the ability of a wireless carrier to compete for service in areas  
5 that have not previously been exposed to competition). The implementation of LNP  
6 is intended to serve the important public interests of improved choice and competition  
7 for consumers.

8 **Q. IS THE PETITIONERS' THREAT OF "CUSTOMER CONFUSION"**<sup>31</sup> **AMONG TELEPHONE USERS A**  
9 **REALISTIC CONCERN?**

10 **A.** Only if the Petitioners' are not required to meet their routing obligations as an  
11 originator of local telecommunications traffic. The Petitioners' threat of misrouting  
12 calls to ported numbers as toll calls is in clear violation of the FCC's rules:

13 "a wireless carrier porting-in a wireline number is required to maintain  
14 the number's original rate center designation following the port. As a  
15 result, calls to the ported number will continue to be rated in the same  
16 fashion as they were prior to the port."<sup>32</sup>

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

18 "The ability of users of telecommunications services to retain, at the  
19 same location, existing telecommunications numbers *without*

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<sup>31</sup> See, for example, Petitioner TC04-045 by Golden West Telecommunications Cooperative, et al, ¶ 20: "The current technical issues with wireline-to-wireless LNP implementation will lead to customer confusion ... The switch will search for a trunk over which to route the call. If a direct trunk group has not been established ... the party placing the call will likely receive a message that the call cannot be complete as dialed or a message instructing the party to redial using 1+ the area code. Confusion among telephone users will occur ..." And See Steven E. Watkins Direct Testimony, p 7 lls 10-13.

<sup>32</sup> Intermodal Porting Order at ¶ 27.

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TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS

1           *impairment of quality, reliability, or convenience* when switching  
2           from one telecommunications carrier to another.”<sup>33</sup> [Emphasis added]

3   **Q.**     **ARE THE PETITIONERS’ CLAIMS CONSISTENT WITH FCC POLICY?**

4   **A.**     No. The Petitioners claim they need additional guidance prior to implementing LNP.  
5           Additional guidance is not necessary. Granting the Petitioners’ delay is at odds with  
6           FCC policy and the interests of rural consumers who, like their urban counterparts,  
7           have the expectation of legal right under the Communications Act to port their  
8           numbers to new carriers should they so desire. Tactics to further delay intermodal  
9           LNP will be a disservice to consumers in each of the Petitioners’ own service areas.

10   **Q.**     **IS THERE EVIDENCE THAT THE PETITIONERS ARE NOT ACTING IN GOOD FAITH WITH RESPECT TO**  
11           **FCC OBLIGATIONS TO IMPLEMENT LOCAL NUMBER PORTABILITY?**

12   **A.**     Yes. It is clear from the Petitioners’ response to discovery that few are moving  
13           forward with LNP implementation. All the Petitioners have ‘considered’ some of the  
14           ramifications of LNP and most have ‘reviewed’ and ‘discussed’, but very few have  
15           actually implemented any element of LNP. The fact that most of the Petitioners have  
16           not prepared their network for the implementation of competition through LNP or  
17           their business processes and, apparently, have not budgeted for LNP implementation  
18           in 2004 (even though they received bona fide requests for implementation in 2003)  
19           does not constitute undue economic burden. Neglect of, disregard for, or mis-  
20           management relative to FCC rules should not be used as basis for granting any delay  
21           or suspension of number portability obligations.

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

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<sup>33</sup> 47 U.S.C. § 153(30)

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**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

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.<sup>34</sup>

8 **VII. CONCLUSION**

9 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

10 Petitioners have not provided evidence or otherwise demonstrated that there is any  
11 technical constraint to the implementation of local number portability by May 24,  
12 2004. Petitioners have not met the standard that would lead one to conclude the  
13 economic burden exceeds that "typically associated with efficient competitive entry."  
14 Nor have Petitioners demonstrated that the implementation of number portability  
15 would conflict with the public interest and the competitive choice guidelines set by  
16 the FCC and this Commission.

17 The Commission should reject Petitioner arguments for delayed  
18 implementation, deny the suspensions, and force the Petitioners to face the  
19 consequences of their LNP preparations or lack thereof.

20 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

21 A. Yes, it does.

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<sup>34</sup> See Attachment Williams' Direct -8, Washington Watch, NECA, March 18, 2004.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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In the Matter of the Petitions of Local Number  
Portability Obligations

Docket No. TC 04-025; TC04-038;  
TC04-044 through TC04-056;  
TC04-060 through TC04-062;  
TC04-077; TC04-084 and TC04-085

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 27 day of May, 2004, I served a true and correct copy of WWC's Direct Testimony of Ron Williams by email and Next Day Delivery, postage paid to:

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Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
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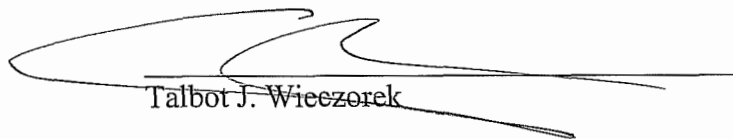
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Talbot J. Wiecezorek

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Telephone Number Portability ) CC Docket No. 95-116  
 )

ORDER

Adopted: January 13, 2004

Released: January 16, 2004

By the Commission:

I. INTRODUCTION

1. In this order, we grant a limited waiver of the wireline-to-wireless porting requirement for certain local exchange carriers with fewer than two percent of the nation's subscriber lines in the aggregate nationwide (Two Percent Carriers)<sup>1</sup> that operate in the top 100 Metropolitan Statistical Areas (MSAs).<sup>2</sup> Specifically, we grant Two Percent Carriers that meet the conditions described in this order a waiver until May 24, 2004, to comply with the wireline-to-wireless porting requirement. The waiver applies to all Two Percent Carriers operating within the top 100 MSAs that had not received a request for local number porting from either a wireline carrier prior to May 24, 2003, or a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned (Covered Carriers). To the extent that a Two Percent Carrier operating within the top 100 MSAs does not meet these qualifications, it must comply with the requirements for wireline-to-wireless porting to date.

II. BACKGROUND

2. *Intermodal Portability.* Section 251(b) of the Communications Act of 1934, as amended (the Act) requires local exchange carriers (LECs) to provide local number portability (LNP), to the extent technically feasible, in accordance with requirements prescribed by the Commission.<sup>3</sup> Although the Act excludes Commercial Mobile Radio Service (CMRS) providers from the definition of local exchange carrier, and therefore from the section 251(b) obligation to provide number portability, the Commission has extended number portability requirements to CMRS providers.<sup>4</sup> The Commission determined that

<sup>1</sup> See 47 U.S.C. § 251(f)(2).

<sup>2</sup> The Commission received several petitions from small LECs operating in the top 100 MSAs for relief of the intermodal porting deadline of November 24, 2003. See Appendix A.

<sup>3</sup> 47 U.S.C. § 251(b)(2). Under the Act and the Commission's rules, local number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

<sup>4</sup> Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8431, paras. 152-53 (1996) (*First Report and Order*). The Commission indicated that it had independent authority under sections 1, 2, 4(i), and 332 of the Communications Act of 1934, as amended, to require CMRS carriers to provide number portability. *Id.* at para. 153. See 47 U.S.C. §§ 1, 2, 4(i), and 332.

implementation of wireless LNP, which would enable wireless subscribers to keep their phone numbers when changing carriers, would enhance competition between wireless carriers as well as promote competition between wireless and wireline carriers.<sup>5</sup>

3. After extending the wireless LNP deadline on several occasions, the Commission established November 24, 2003 as the date in which wireless carriers in the top 100 MSAs must be capable of wireless-to-wireless and wireless-to-wireline porting and wireline carriers must be capable of wireline-to-wireless porting. On November 10, 2003, we released a Memorandum Opinion and Order and Further Notice of Proposed Rule Making (*Intermodal Order*) further clarifying certain aspects of intermodal porting.<sup>6</sup> In the order, we recognized that many wireline carriers operating outside of the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability.<sup>7</sup> Therefore, we waived, until May 24, 2004, the requirement that wireline carriers operating outside the top 100 MSAs port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.<sup>8</sup>

4. *Petitions.* As the November 24, 2003 deadline approached, we received a number of petitions for waiver of the intermodal porting requirement (Waiver Petitions) from small LECs operating in the top 100 MSAs (Petitioners).<sup>9</sup> Nearly all of the Petitioners describe themselves as small telephone companies and assert that they are more similarly situated to LECs operating outside the top 100 MSAs than the large carriers operating within the top 100 MSAs.<sup>10</sup> In support of this claim, many of the Petitioners note that the intermodal porting requests that they received from CMRS providers were their first requests for any type of porting.<sup>11</sup> Because they had not previously received requests from other wireline carriers to make their systems LNP-capable, the Petitioners argue that they were at a technological disadvantage compared to most, if not all, of the larger LECs in their MSAs, which had already upgraded their systems to provide wireline-to-wireline porting. Therefore, the Petitioners request additional time to comply with the intermodal porting requirements, many requesting the same period given to LECs operating outside the top 100 MSAs.<sup>12</sup>

5. On November 21, 2003, the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperation Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies (Joint Petitioners) filed an Emergency Joint Petition for Stay and Clarification (Joint Petition) requesting that the Commission stay application of the

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<sup>5</sup> *First Report and Order* at 8434-36, paras. 157-160.

<sup>6</sup> Telephone Number Portability, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. Nov. 10, 2003) (*Intermodal Order*).

<sup>7</sup> *Intermodal Order* at para. 29.

<sup>8</sup> *Id.*

<sup>9</sup> See Appendix A. Sprint Corporation (Sprint) filed oppositions to five of these petitions and comments in support of one of the petitions. See Appendix B. Additionally, Northeast Florida and Valley filed reply comments to Sprint's oppositions to their petitions. *Id.*

<sup>10</sup> See, e.g., Northeast Florida Petition at 3; Yadkin Valley Petition at 2; OTELCO Petition at 2; MoKan Petition at 3.

<sup>11</sup> See, e.g., MoKan Petition at 4; Northeast Florida at 4; United Petition at 2-3; Blountsville Petition at 3-4.

<sup>12</sup> A number of the Petitioners also claim that it was unclear, until the November 10, 2003 *Intermodal Order*, whether they would have had to act on the requests from CMRS providers that do not have points of interconnection or numbering resources in the rate centers where the customers' wireline numbers are provisioned. These Petitioners state that, because the clarification occurred only two weeks before the November 24 deadline, it would be technologically and operationally impossible to become intermodal porting capable by November 24, even with the carriers taking reasonable efforts and acting in good faith.

*Intermodal Order* with respect to Two Percent Carriers until the Commission reconsiders and/or clarifies certain aspects of that decision.<sup>13</sup> Specifically, the Joint Petitioners assert that it is technically infeasible for Two Percent Carriers to comply with the November 24, 2003 deadline,<sup>14</sup> and that the interests of all the parties involved in the port request, including the consumer, will benefit from additional time for Two Percent Carriers to face the operational and network hurdles that must be overcome to achieve a smooth transition.<sup>15</sup> Moreover, the Joint Petitioners argue that Two Percent Carriers need additional time to become capable of wireline-to-wireless porting because many of them had never been requested to support wireline-to-wireline porting and were uncertain of their intermodal porting obligations until the release of the *Intermodal Order* two weeks before the November 24, 2003.<sup>16</sup>

6. *Waiver Standard.* The Commission may, on its own motion, waive its rules when good cause is demonstrated.<sup>17</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>18</sup> In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>19</sup> Commission rules are presumed valid, however, and an applicant for waiver bears a heavy burden.<sup>20</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>21</sup>

### III. DISCUSSION

7. We find that good cause exists to grant a waiver of the wireline-to-wireless porting requirement for Covered Carriers until May 24, 2004. Special circumstances exist for Covered Carriers because of the technological and operational limitations they face in implementing the necessary modifications to provide wireline-to-wireless porting. We also find that this additional time is consistent with the public interest. Therefore, we grant the Waiver Petitions and the Joint Petition, in part, to the extent consistent with this order, and otherwise deny them.

8. *Special Circumstances.* We find that special circumstances warrant a limited deviation from the November 24, 2003 deadline for Covered Carriers. Specifically, we recognize that the Covered Carriers' networks have technological limitations that cannot be resolved immediately to comply with the wireline-to-wireless porting requirement. The Joint Petitioners and most of the Petitioners assert that, unlike the large carriers serving within the Top 100 MSAs, a number of Two Percent Carriers in those markets had not received requests from other wireline carriers for wireline-to-wireline porting prior to

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<sup>13</sup> Emergency Joint Petition for Stay and Clarification filed by the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperation Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, filed on November 21, 2003 (Joint Petition) at 22. See Appendix A. Sprint and Nextel Communications, Inc. opposed the Joint Petition. See Appendix B

<sup>14</sup> Joint Petition at 4, 7, 12.

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.* at 7-11.

<sup>17</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>18</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (*Northeast Cellular*).

<sup>19</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>20</sup> *WAIT Radio*, 418 F.2d at 1157.

<sup>21</sup> *Id.* at 1159.

May 24, 2003.<sup>22</sup> As a result, in order to offer intermodal portability to their subscribers, these smaller carriers must acquire the hardware and software necessary to provide porting, make the necessary network upgrades, and ensure that their upgraded networks work reliably and accurately.<sup>23</sup> Some of the Petitioners also assert that Two Percent Carriers often lack the experience and technical experience with number porting to quickly implement the necessary upgrades to their systems to ensure accurate porting.<sup>24</sup> Accordingly, we conclude that special circumstances exist to grant Two Percent Carriers who have not previously upgraded their systems to support LNP a limited amount of additional time to overcome the technological obstacles they face to successfully meet a request for wireline-to-wireless porting.<sup>25</sup> Such relief is also consistent with the relief we granted, in the *Intermodal Order*, to similarly situated wireline carriers operating outside the top 100 MSAs.<sup>26</sup>

9. *Public Interest.* We likewise find that the additional time is in the public interest for Covered Carriers to become capable of providing wireline-to-wireless porting. While we continue to deem rapid implementation of number portability to be in the public interest, we also believe it to be just as important that carriers implement and test the necessary system modifications to ensure reliability, accuracy, and efficiency in the porting process.<sup>27</sup> As we found with the waiver granted to wireline carriers outside the top 100 MSAs, a transition period for Covered Carriers will help ensure a smooth transition and provide Covered Carriers sufficient time to make necessary modifications to their systems.<sup>28</sup>

10. We also agree with the Petitioners that consumers will not likely be adversely impacted by the grant of an additional six months to these carriers. According to the Petitioners, many Two Percent Carriers had not received requests or even inquiries from their customers concerning their ability to port their wireline numbers,<sup>29</sup> and some carriers have devised temporary solutions to allow at least some of their customers to port their wireline numbers if they so desire.<sup>30</sup> Therefore, we anticipate that few customers will be adversely impacted by this limited waiver.

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<sup>22</sup> See, e.g., MoKan Petition at 4; OTELCO Petition at 4, 8; Northeast Petition at 4; Blountsville Petition at 4, 9; Warwick Valley Petition at 4, 9; United Petition at 2-3, 7; YCOM Petition at 3, 8; Rio Virgin Petition at 3, 7; Egyptian Petition at 3, 8; Cascade Utilities Petition at 3, 7-8; and Laurel Highland Petition at 3, 7-8. See also Joint Petition at 7.

<sup>23</sup> See, e.g., Full Service Petition at 2. We note, however, that additional time is not necessary for Two Percent Carriers inside the top 100 MSAs that received a request to port a subscriber's number to another wireline carrier before May 24, 2003. These carriers would already have had to become LNP capable as of November 24, 2003, and therefore, would only need to make accommodations to provide wireline-to-wireless porting. Likewise, carriers would not need additional time for switches that are already LNP capable.

<sup>24</sup> See, e.g., MoKan Petition at 5; Northeast Florida at 5.

<sup>25</sup> See, e.g., MoKan Petition at 5; Northeast Florida at 5. In response to Sprint's oppositions, we note that Two Percent Carriers that were LNP capable as of November 24, 2003, or otherwise received a request from a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned, must continue to comply with the current requirements for wireline-to-wireless porting.

<sup>26</sup> *Intermodal Order* at para. 29.

<sup>27</sup> Joint Petition at 4, 18. See also MoKan Petition at 7 ("Without appropriate testing, there will be delays and errors in porting numbers, which is not in the best interest of the consumer or either carrier involved with the port.").

<sup>28</sup> *Intermodal Order* at para. 29.

<sup>29</sup> See, e.g., MoKan Petition at 6, Northeast Florida at 6.

<sup>30</sup> See, e.g., Full Service Petition at 3 (moving some of its customers from the outdated switch to UNE-P service which allows for number portability until a new switch that supports number portability is installed).

11. We disagree with Sprint's claim that such a waiver would relieve Covered Carriers of their obligations to provide wireline-to-wireless porting.<sup>31</sup> Rather the relief granted in this Order merely gives Covered Carriers additional time to overcome the technological and operations hurdles that large carriers in the top 100 MSAs did not face. Moreover, the waiver will not adversely impact rural customers because of its limited nature.

#### IV. ORDERING CLAUSE

12. Accordingly, IT IS ORDERED that, pursuant to authority contained in sections 1, 4(i), 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, we GRANT a limited waiver of the wireline-to-wireless porting requirement, until May 24, 2004, for local exchange carriers with fewer than two percent of the nation's subscriber lines in the aggregate nationwide that operate in the top 100 Metropolitan Statistical Areas and have not received a request for local number porting from either a wireline carrier prior to May 24, 2003 or a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.

13. IT IS FURTHER ORDERED, pursuant to authority contained in sections 1, 4(i), 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, that the petitions listed in Appendix A to this Order ARE GRANTED IN PART AND DENIED IN PART, to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>31</sup> See, e.g., Sprint Opposition to Bentleyville Petition at 1; Sprint Opposition to Valley Petition at 1-2; and Sprint Opposition to YCOM Petition at 1. See also, generally, Sprint Opposition to Northeast Florida Petition; Sprint Opposition to Warwick Valley Petition; and Sprint Opposition to Joint Petition.

## APPENDIX A

## PETITIONERS

**Filed September 24, 2003**

North Central Telephone Cooperative, Inc. (North Central) (supplemented petition on December 8, 2003)

**Filed November 20, 2003**

Yadkin Valley Telephone Membership Corporation (Yadkin Valley)

**Filed November 21, 2003**

Armstrong Telephone Company (Armstrong)  
Bentleyville Telephone Company (Bentleyville) (\*\*)  
Blountsville Telephone Co. (Blountsville)  
Cascade Utilities, Inc. (Cascade Utilities)  
Champaign Telephone Company (Champaign) (supplemented petition on December 19, 2003)  
Chouteau Telephone Company (Chouteau)  
East Ascension Telephone Company, LLC (East Ascension)  
Egyptian Telephone Cooperative Association (Egyptian)  
Ellensburg Telephone Company (Ellensburg)  
Empire Telephone Corp. (Empire)  
E.N.M.R. Telephone Cooperative (ENMR)  
Independent Telephone and Telecommunications Alliance, the National Telecommunications  
Cooperation Association, and the Organization for the Promotion and Advancement of Small  
Telecommunications Companies (Joint Petitioners)  
Laurel Highland Telephone Company (Laurel Highland)  
Mariana and Scenery Hill Telephone Company (Mariana)  
Middleburg Telephone Company (Middleburg)  
MoKan Dial Telephone Company (MoKan)  
Northeast Florida Telephone Company (Northeast Florida)  
Orwell Telephone Company (Orwell)  
OTELCO Telephone, LLC (OTELCO)  
Pymatuning Telephone Company (Pymatuning)  
Rio Virgin Telephone Co., Inc. (Rio Virgin)  
State Telephone Co., Inc. (State)  
Taconic Telephone Corp. (Taconic)  
Tohono O'odham Utility Authority (Tohono)  
United Telephone Company (United)  
Valley Telephone Cooperative, Inc. (Valley)  
Warwick Valley Telephone Company (Warwick Valley)  
YCOM Networks, Inc. (YCOM)

**Filed November 24, 2003**

Eastern Slope Rural Telephone Association (Eastern Slope)  
Peoples Telecommunications, LLC (Peoples)  
Southern Kansas Telephone Company (Southern Kansas)  
Wheat State Telephone, Inc. (Wheat State)



**APPENDIX A**  
**PETITIONERS (CON'T)**

**Filed November 25, 2003**

Full Service Computing Corp. (Full Service)

**Filed December 11, 2003**

Green Hills Telephone Corporation (Green Hills)

\*\* The Bentleyville Petition has been withdrawn pursuant to the petitioner's request. *See* Telephone Number Portability, CC Docket No. 95-116, *Order*, DA 04-0069 (rel. Jan. 15, 2004).

**APPENDIX B****OPPOSITIONS, COMMENTS, AND REPLY COMMENTS****Comments**

Sprint Corporation (Sprint) filed comments in support of Yadkin Valley Petition (November 26, 2003).

**Oppositions**

Sprint filed oppositions to the following petitions:

- Bentleyville Petition (December 8, 2003)(\*\*);
- Joint Petition (December 10, 2003);
- Northeast Florida Petition (December 3, 2003);
- Valley Petition (December 8, 2003);
- Warwick Valley Petition (December 16, 2003); and
- YCOM Petition (December 10, 2003).

Nextel Communications, Inc. filed an ex parte opposing the Joint Petition (December 23, 2003).

**Reply Comments**

Northeast Florida filed reply comments to Sprint's opposition (December 10, 2003).

Valley filed reply comments to Sprint's opposition (December 18, 2003).

\*\* The Bentleyville Petition has been withdrawn pursuant to the petitioner's request. *See* Telephone Number Portability, CC Docket No. 95-116, *Order*, DA 04-0069 (rel. Jan. 15, 2004).

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Petition of The North-Eastern Pennsylvania	)	
Telephone Company for Temporary Waiver of its	)	
Porting Obligations	)	
	)	
	)	

**ORDER**

**Adopted: May 12, 2004**

**Released: May 13, 2004**

By the Deputy Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we deny the petition filed by The North-Eastern Pennsylvania Telephone Company (NEP) seeking an extension of the May 24, 2004 deadline for implementing local number portability (LNP or porting).<sup>1</sup> We find that NEP has not demonstrated that special circumstances warrant a waiver or that such an extension is in the public interest. We will not, however, enforce NEP's LNP obligations until sixty days after the release of this Order to provide NEP with an opportunity to make arrangements to come into compliance with its LNP obligations.

**II. BACKGROUND**

2. *Local Number Portability.* Section 251(b) of the Communications Act of 1934, as amended, (Act)<sup>2</sup> mandates local exchange carriers (LECs) to provide LNP in accordance with the requirements outlined by the Commission.<sup>3</sup> The Commission, in the *Number Portability First Report and Order*, established the parameters for LNP and required commercial mobile radio service (CMRS or wireless)

<sup>1</sup> See Petition of The North-Eastern Pennsylvania Telephone Company Petition for Waiver of Section 52.23(b) of the Commission's Rules, filed March 23, 2004 (NEP Petition). The NEP petition was placed on public notice on March 26, 2004. See *Wireline Competition Bureau Seeks Comment on the Petition of The North-Eastern Pennsylvania Telephone Company for Temporary Waiver of the Commission's Number Portability Requirements*, Public Notice, CC Docket No. 95-116, DA 04-798 (rel. March 26, 2004). Comments were filed by Cellular Telecommunications & Internet Association (CTIA), Dobson Communications Corporation (Dobson), Nextel Communications, Inc. (Nextel) and Verizon Wireless (Verizon), and reply comments were filed by National Telecommunications Cooperative Association (NTCA), NEP, and T-Mobile USA, Inc. (T-Mobile).

<sup>2</sup> 47 U.S.C. §§ 151-174.

<sup>3</sup> 47 U.S.C. §251(b).

providers to become LNP-capable pursuant to sections 1, 2, 4(i), and 332 of the Act.<sup>4</sup> In doing so, the Commission concluded that the public interest is served by making LNP available across different technologies and thereby promoting competition between CMRS service providers and wireline carriers.<sup>5</sup> Initially, CMRS providers were required to become LNP-capable by June 30, 1999.<sup>6</sup> The Commission subsequently extended this deadline, and required CMRS carriers operating in the top 100 Metropolitan Statistical Areas (MSAs) to provide number portability upon request by another carrier by November 24, 2003.<sup>7</sup> CMRS carriers operating outside the top 100 MSAs must become LNP-capable within six months of a request or by May 24, 2003, whichever is later.<sup>8</sup> On November 10, 2003, the Commission concluded that, as of November 24, 2003, LECs 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, provided that the porting-in carrier maintains the number's original rate center designation following the port.<sup>9</sup> The Commission, however, granted wireline carriers operating in areas outside of the 100 largest MSAs, in certain circumstances, a waiver until May 24, 2004 of the requirement to port numbers to wireless carriers.<sup>10</sup> The Commission later granted certain LECs with fewer than two percent of the nation's subscriber lines in the aggregate nationwide (Two Percent Carriers) that operate in the top 100 MSAs a limited waiver of the wireline-to-wireless porting requirement.<sup>11</sup>

3. NEP's Request for Waiver. NEP is a rural incumbent LEC providing service in Northeast Pennsylvania.<sup>12</sup> NEP represents that it decided, in 2001, to upgrade its switch network and sought

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<sup>4</sup> *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8431-42 (1996) (*Number Portability First Report and Order*).

<sup>5</sup> See *id.* at 8432, ¶ 153.

<sup>6</sup> *Id.* at 8440, ¶ 166.

<sup>7</sup> See *Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, Memorandum Opinion and Order, 17 FCC Rcd 14972 (2002) (*Verizon Wireless LNP Forbearance Order*); *Cellular Telecommunications & Internet Association v. FCC*, No. 02-1264 (D.C. Cir. June 6, 2003) (Dismissing in part and denying in part CTIA's appeal of the Commission's decision in the *Verizon Wireless LNP Forbearance Order*). CMRS carriers were required to be LNP-capable by November 24, 2003 if requests from other carriers were received by February 24, 2003. *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14985-86. The *Verizon Wireless LNP Forbearance Order* also lays out the history of the CMRS carriers' LNP deadline extensions. See also, *Western Wireless Limited, Conditional Petition for Waiver of Local Number Portability and Thousands-Block Number Pooling Obligations*, CC Docket Nos. 95-116 and 99-200, Order, 18 FCC Rcd 24692 (Wireline Comp. Bur. 2003) (*Western Wireless Order*).

<sup>8</sup> *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14986.

<sup>9</sup> See *Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, 23706-07 (2003) (*Intermodal LNP Order*).

<sup>10</sup> *Id.*

<sup>11</sup> *Telephone Number Portability*, Order, 19 FCC Rcd 875 (2004).

<sup>12</sup> NEP's existing switch network consists of eight exchanges. These exchanges include the Union Dale, Harford, New Milford, Jackson, Thompson, Pleasant Mount, Clifford, and Forest City exchanges. See NEP Petition at 2, 5.

informal quotes from various switch equipment manufacturers at that time.<sup>13</sup> NEP subsequently concluded that it would be more efficient and economical to replace its existing switches with software based switch ("soft switch") technology.<sup>14</sup> Accordingly, in March 2003, NEP sought formal quotes and proposals from several switch manufacturers for soft switches.<sup>15</sup> In September 2003, NEP contracted with Taqua, Inc. (Taqua) to purchase eight soft switches to be installed on a phased-in basis, beginning on May 1, 2004 and ending on December 31, 2005.<sup>16</sup> However, according to NEP, certain service feature implementation issues need to be resolved before the first switch can be put into service.<sup>17</sup> NEP requests a waiver to provide additional time to accommodate the deployment schedule for its eight exchanges and to resolve the implementation issues.<sup>18</sup>

4. NEP contends good cause exists for granting an extension of the May 24, 2004 porting implementation deadline.<sup>19</sup> Specifically, NEP maintains that it has been planning and implementing network upgrades since 2001 to address expected network capability requirements.<sup>20</sup> NEP argues that it did not anticipate that intermodal porting<sup>21</sup> would be an "imminent requirement" until the Commission's *Intermodal LNP Order* released in November 2003.<sup>22</sup> Upon release of the order, NEP contends that it immediately reviewed its number portability plans with Taqua.<sup>23</sup> NEP maintains that, while working with Taqua to resolve certain service feature issues, it became apparent to NEP that it will be unable to meet the May 24, 2004 implementation deadline for all of its switches.<sup>24</sup> Further, NEP states that it will provide the Commission with quarterly progress reports and updates to the deployment schedule, including solutions that will allow NEP to advance its deployment schedule and number portability.<sup>25</sup>

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<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.* at 3, 5.

<sup>17</sup> *Id.* at 3.

<sup>18</sup> See *id.* at 5. NEP's projected switch in-service date for its eight exchanges is as follows: (1) Union Dale - May 1, 2004; Harford - June 30, 2004; New Milford - September 30, 2004; Jackson - December 31, 2004; Thompson - March 31, 2005; Pleasant Mount - June 30, 2005; Clifford - September 30, 2005; and Forest City - December 31, 2005. *Id.* NEP notes, however, that this deployment schedule is dependent on Taqua's resolution of service feature problems and the successful deployment of LNP. *Id.*

<sup>19</sup> *Id.* at 1; NEP Reply Comments at 1-2.

<sup>20</sup> NEP Petition at 2-3.

<sup>21</sup> Intermodal porting is porting between wireline and wireless service providers.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 5.

<sup>25</sup> *Id.* at 6.

5. CTIA, Dobson, Nextel, Verizon, and T-Mobile oppose granting NEP's waiver.<sup>26</sup> They argue that NEP has not demonstrated through substantial, credible evidence that special circumstances justify a waiver of the Commission's LNP rules.<sup>27</sup> They also contend that the public interest would not be served if such waiver is granted.<sup>28</sup> Specifically, they argue that grant of NEP's waiver would undermine the Commission's goal of promoting competition and cause customer confusion.<sup>29</sup>

6. One commenter, NTCA, supports NEP's petition.<sup>30</sup> NTCA maintains that, because NEP is moving toward full compliance with its LNP obligations, the Commission should provide NEP with a temporary waiver.<sup>31</sup> NTCA contends that large carriers, such as Nextel and Verizon, fail to take into account the financial, technical, and staffing realities of small LECs.<sup>32</sup> According to NTCA, it would have been financially irresponsible for NEP to upgrade its equipment prior to having a firm obligation to do so.<sup>33</sup>

7. *Waiver Standard.* The Commission's rules may be waived when good cause is demonstrated.<sup>34</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>35</sup> In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>36</sup> Commission rules are presumed valid, however, and an applicant for waiver bears a heavy burden.<sup>37</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>38</sup>

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<sup>26</sup> See CTIA Comments at 1-2; Dobson Comments at 1-2; Nextel Comments at 1-3; Verizon Comments at 1-3; T-Mobile Reply Comments at 1-2.

<sup>27</sup> See CTIA Comments at 2-3; Dobson Comments at 3-8; Nextel Comments at 3-6; Verizon Comments at 3-4; T-Mobile Reply Comments at 2-4.

<sup>28</sup> See CTIA Comments at 3; Dobson Comments at 8; Nextel Comments at 7-8; Verizon Comments at 5-7; T-Mobile Comments at 4-5.

<sup>29</sup> *Id.*

<sup>30</sup> See NTCA Reply Comments.

<sup>31</sup> See *id.* at 1.

<sup>32</sup> *Id.* at 3.

<sup>33</sup> *Id.* at 2-3.

<sup>34</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>35</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (*Northeast Cellular*).

<sup>36</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>37</sup> *WAIT Radio*, 418 F.2d at 1157.

<sup>38</sup> *Id.* at 1159.

8. In seeking an extension of the LNP deployment deadline, a carrier must provide substantial, credible evidence to support its contention that it is unable to comply with the deployment schedule.<sup>39</sup> A request for an extension of a deadline must be filed with the Commission at least sixty days in advance of the deadline.<sup>40</sup>

### III. DISCUSSION

9. We find that NEP has not demonstrated good cause to justify waiving the May 24, 2004 porting deadline. In particular, we agree with those commenters who argue that NEP has not shown through substantial, credible evidence that special circumstances warrant an extension of the porting deadline until December 31, 2005 and that postponing porting as requested will serve the public interest.<sup>41</sup> We decline, however, to enforce NEP's LNP obligations for sixty days following the release of this Order.

10. *Special Circumstances.* We are not persuaded by NEP's claims that special circumstances exist warranting a waiver of the May 24, 2004 porting deadline in order to accommodate NEP's switch delivery and deployment schedule, and provide additional time to resolve any service feature issues. We find that NEP has not presented "extraordinary circumstances beyond its control in order to obtain an extension of time."<sup>42</sup> Rather, NEP consciously made a business decision to upgrade its switches on a certain schedule.<sup>43</sup> NEP has not shown that challenges it may face are different from those faced by similarly situated carriers who are able to comply.<sup>44</sup> Generalized references to limited resources and implementation problems do not constitute substantial, credible evidence justifying an exemption from the porting requirements. NEP has known since 1996 that it would need to support LNP within six months of a request from a competing carrier.<sup>45</sup> Although wireless LNP was delayed, all carriers have been on notice since July 2002 that wireless and intermodal LNP would become available beginning in November 2003.<sup>46</sup> Thus, NEP has had sufficient time to follow through with these mandates and prepare for LNP.<sup>47</sup>

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<sup>39</sup> 47 C.F.R. § 52.23(e); *see also* 47 C.F.R. § 52.31(d).

<sup>40</sup> *Id.*

<sup>41</sup> *See* CTIA Comments at 2-3; Dobson Comments at 3-8; Nextel Comments at 3-6; Verizon Comments at 3-4; T-Mobile Reply Comments at 2-4.

<sup>42</sup> *Number Portability First Report and Order*, 11 FCC Rcd at 8397, ¶ 85.

<sup>43</sup> *See supra* ¶ 3.

<sup>44</sup> *See Western Wireless Order*, 18 FCC Rcd at 24696, ¶ 10 (in denying a waiver request to extend the thousands-block number pooling and LNP deadlines, the Bureau found that "Western ha[d] not demonstrated that it will sustain costs that are different from, or burdensome than, the costs of similarly situated Tier II wireless carriers").

<sup>45</sup> *See Number Portability First Report and Order*, 11 FCC Rcd 8352; *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7273-75, ¶¶ 60-66 (1997) (*Number Portability Reconsideration Order*).

<sup>46</sup> *See Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd 14972.

<sup>47</sup> *See Western Wireless Order*, 18 FCC Rcd at 24697-98, ¶ 13.

(continued....)

11. *Public Interest.* We also conclude that an extension of the porting deadline until December 31, 2005 would not serve the public interest because it would unduly delay the benefits of number portability to the public and could cause customer confusion. Portability has promoted, and will continue to promote, competition, especially in underserved areas, by allowing consumers to move to carriers that better serve consumers' needs without having to make the difficult choice to give up their numbers.<sup>48</sup> Thus, we find that the public interest would be served by implementing porting as soon as possible.

12. Furthermore, NEP should have considered the porting requirements, set out by the Commission long ago, when it contracted with vendors to install necessary upgrades. Accordingly, we conclude that granting NEP's request to extend the porting deadline would be inconsistent with the Commission's policy to promote competition, consumer choice, and efficient number use. We therefore deny NEP's request for a waiver of the May 24, 2004 porting implementation deadline.

13. Although we are not persuaded that a waiver of the porting requirements until December 31, 2005 is justified, we decline to enforce NEP's LNP obligations for sixty days following the release of this Order.<sup>49</sup> We find that some limited time to allow NEP to make the necessary preparations to implement LNP is reasonable to ensure compliance with our rules.<sup>50</sup> Non-enforcement for sixty days will also help to avoid any network disruptions, maximize trouble-free operation of LNP, and ensure that customers' requests for services will not be delayed due to carriers' difficulty in obtaining numbering resources.<sup>51</sup>

(Continued from previous page) \_\_\_\_\_

<sup>48</sup> *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14984, ¶ 28.

<sup>49</sup> See *Western Wireless Order*, 18 FCC Rcd 24692 (in denying Western's petition for waiver to extend the thousands-block number pooling (pooling) and LNP deadlines, the Bureau found that a sixty-day non-enforcement period would provide Western the time needed to properly implement and commence LNP and pooling).

<sup>50</sup> *Id.* at 24698, ¶ 16.

<sup>51</sup> *Id.*



**IV. ORDERING CLAUSE**

14. Accordingly, IT IS ORDERED that, pursuant to authority contained in sections 1, 4(i), 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, and the authority delegated under sections 0.91, 0.291, 1.3, 52.9(b), and 52.23(e) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 52.9(b), 52.23(e), the petition filed by The North-Eastern Pennsylvania Telephone Company is DENIED to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Deputy Chief, Wireline Competition Bureau

**Exhibit Williams Direct - 3 BFR Summary - South Dakota**

<b>Telco Name</b>	<b>OCN</b>	<b>Date BFR Sent to Telco</b>	<b>Date Response Sent From Telco</b>	<b>Respondents Name</b>	<b>Date Operation Agreement Sent to Telco</b>
Valley Telecom Cooperative Association, Inc.	1685	11/18/2003	12/1/2003	Steve Oleson	12/19/2003
Santel Communications Cooperative, Inc.	1676	11/18/2003	12/2/2003	Darla Pollman Rogers	12/19/2003
Stockhom-Strandburg Telephone Co.	1679	11/18/2003	12/3/2003	Darla Pollman Rogers	12/19/2003
Cheyenne River Sioux Tribe Telephone Authority	1647	11/18/2003	12/16/2003	J.D. Williams	12/10/2003
Vivian Telephone dba Golden West Telecom.	1686	11/18/2003	11/19/2003	George Strandell	12/19/2003
Bridgewater-Canistota Ind. Tel. Co. - Golden West	0158	11/18/2003	11/19/2003	George Strandell	12/19/2003
Armour Independent Telephone Co. - Golden West	1640	11/18/2003	11/19/2003	George Strandell	12/19/2003
Sioux Valley Telephone Company - Golden West	1677	11/18/2003	11/19/2003	George Strandell	12/19/2003
Midstate Communications, Inc.	1670	11/18/2003	12/12/2003	Peggy Reinesch	12/10/2003
McCook Cooperative Telephone Co.	1669	11/18/2003	12/2/2003	Darla Pollman Rogers	12/19/2003
City of Faith Municipal Telephone Company	1653	11/18/2003	N/A	N/A	12/10/2003
West River Telephone Cooperative Company	1689	11/18/2003	11/24/2003	Jerry Reisenauer	12/19/2003
Beresford Municipal Telephone Company	1649	11/18/2003	11/21/2003	Wayne Akland	12/19/2003
Alliance Communications	1657	11/18/2003	2/2/2004	Don Snyders	12/10/2003
James Valley Cooperative Telephone Company	1664	11/18/2003	11/19/2003	George Strandell	12/19/2003
Kadoka Telephone Co. - Golden West	1667	11/18/2003	11/19/2003	George Strandell	12/19/2003
Golden West Telecommunications	1659	11/18/2003	11/19/2003	George Strandell	12/19/2003
Union Telephone Co. - Golden West	1684	11/18/2003	11/19/2003	George Strandell	12/19/2003
Venture Communications Cooperative	1680	11/18/2003	12/2/2003	Darla Pollman Rogers	N/A
Interstate Telecom Coop, Inc.	1651	11/18/2003	11/21/2003	Jerry Heiberger	12/19/2003
RC Communications	1662	11/18/2003	11/21/2003	Pamela Harrington	12/19/2003
Kennebec Telephone Co.	1668	11/18/2003	11/21/2003	Rod Bowar	12/19/2003
Swiftel Communications - Brookings Municipal Util.	1650	11/18/2003	N/A	N/A	12/19/2003
Roberts County Telephone Cooperative Assoc.	1674	11/18/2003	11/21/2003	Pamela Harrington	12/19/2003

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
Telephone Number Portability	)	
	)	
	)	CC Docket No. 95-116
CTIA Petitions for Declaratory Ruling on	)	
Wireline-Wireless Porting Issues	)	
	)	
	)	
	)	

**MEMORANDUM OPINION AND ORDER AND FURTHER NOTICE OF PROPOSED  
RULEMAKING**

**Adopted:** November 7, 2003

**Released:** November 10, 2003

By the Commission: Chairman Powell, Commissioners Abernathy, Copps, Martin, and Adelstein issuing separate statements.

**Comment Date:** 20 days after publication in the Federal Register.

**Reply Comment Date:** 30 days after publication in the Federal Register.

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Appendix A – List of Commenters

Appendix B - Initial Regulatory Flexibility Analysis

## I. INTRODUCTION

1. In this order, we provide guidance to the industry on local number portability (LNP) issues relating to porting between wireless and wireline carriers (intermodal porting). First, in response to a Petition for Declaratory Ruling filed on January 23, 2003, by the Cellular Telecommunications and Internet Association (CTIA), we clarify that nothing in the Commission's rules limits porting between wireline and wireless carriers to require the wireless carrier to have a physical point of interconnection<sup>1</sup> or numbering resources in the rate center where the number is assigned. We find that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's "coverage area" overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port. The wireless "coverage area" is the area in which wireless service can be received from the wireless carrier. In addition, in response to a subsequent CTIA petition, we clarify that wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between the carriers. We also decline to adopt a mandatory porting interval for wireline-to-wireless ports at the present time, but we seek comment on the issue as noted below.

2. In the accompanying Further Notice of Proposed Rulemaking (Further Notice), we seek comment on how to facilitate wireless-to-wireline porting if the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer. In addition, we seek comment on whether we should require carriers to reduce the length of the porting interval for ports between wireless and wireline carriers.

## II. BACKGROUND

### A. Statutory and Regulatory Background

3. Section 251(b) of the Communications Act of 1934, as amended (the Act) requires local exchange carriers (LECs) to provide local number portability, to the extent technically feasible, in accordance with requirements prescribed by the Commission.<sup>2</sup> Under the Act and the Commission's rules, local number portability is defined as "the ability of users of telecommunications services to retain,

<sup>1</sup> Referred to hereinafter as "point of interconnection."

<sup>2</sup> 47 U.S.C. § 251(b)(2).

at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>3</sup>

4. The Commission released the Local Number Portability *First Report and Order* in 1996, which promulgated rules and deployment schedules for the implementation of number portability.<sup>4</sup> The Commission highlighted the critical policy goals underlying the LNP requirement, indicating that “the ability of end users to retain their telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of telecommunications services they can choose to purchase.”<sup>5</sup> The Commission found that “number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers.”<sup>6</sup>

5. The Commission adopted broad porting requirements, noting that “as a practical matter, [the porting obligation] requires LECs to provide number portability to other telecommunications carriers providing local exchange or exchange access service within the same MSA.”<sup>7</sup> In addition, the Commission noted the section 251(b) requires LECs to port numbers to wireless carriers. The Commission stated that “section 251(b) requires local exchange carriers to provide number portability to all telecommunications carriers, and thus to Commercial Mobile Radio Service (CMRS) providers as well as wireline service providers.”<sup>8</sup>

6. The Commission adopted rules implementing the LNP requirements. Section 52.21(k) of the rules defines number portability to mean “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>9</sup> Section 52.23(b)(1) provides that “all local exchange carriers (LECs) must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998 ... in switches for which another carrier has made a specific request for the provision of number portability ...”<sup>10</sup> Finally, Section 52.23(b)(2)(i) of the Commission rules provides that “any wireline carrier that is certified ... to provide local exchange service, or any licensed CMRS provider, must be permitted to make a request for the provision of number portability.”<sup>11</sup>

7. In 1997, in the Local Number Portability *Second Report and Order*, the Commission adopted recommendations from the North American Numbering Council (NANC) for the implementation of

<sup>3</sup> 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

<sup>4</sup> Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (First Report and Order).

<sup>5</sup> *Id.* at 8368, para. 30.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 8393, para. 77.

<sup>8</sup> *Id.* at 8431, para. 152.

<sup>9</sup> 47 C.F.R. § 52.21(k).

<sup>10</sup> 47 C.F.R. § 52.23(b)(1).

<sup>11</sup> 47 C.F.R. § 52.23(b)(2)(i).

wireline-to-wireline number portability.<sup>12</sup> Under the guidelines developed by the NANC, porting between LECs was limited to carriers with facilities or numbering resources in the same rate center to accommodate technical limitations associated with the proper rating of wireline calls.<sup>13</sup> The NANC guidelines made no recommendations regarding limitations on intermodal porting.

8. Although the Act excludes CMRS providers from the definition of local exchange carrier, and therefore from the section 251(b) obligation to provide number portability, the Commission has extended number portability requirements to CMRS providers.<sup>14</sup> In the Local Number Portability *First Report and Order*, the Commission indicated that it had independent authority under sections 1, 2, 4(i), and 332 of the Communications Act of 1934, as amended, to require CMRS carriers to provide number portability.<sup>15</sup> The Commission noted that “sections 2 and 332(c)(1) of the Act give the Commission authority to regulate commercial mobile radio service operators as common carriers ...”<sup>16</sup> Noting that section 1 of the Act requires the Commission to make available to people of the United States, a rapid, efficient, nation-wide and world-wide wire and radio communication service, the Commission stated that its interest in number portability “is bolstered by the potential deployment of different number portability solutions across the country, which would significantly impact the provision of interstate telecommunications services.”<sup>17</sup> Section 4(i) of the Act grants the Commission authority to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with [the Communications Act of 1934, as amended] as may be necessary in the execution of its functions.”<sup>18</sup> The Commission concluded that “the public interest is served by requiring the provision of number portability by CMRS providers because number portability will promote competition between providers of local telephone services and thereby promote competition between providers of interstate access services.”<sup>19</sup>

9. The Commission determined that implementation of wireless LNP, which would enable wireless subscribers to keep their phone numbers when changing carriers, would enhance competition between wireless carriers as well as promote competition between wireless and wireline carriers.<sup>20</sup> The

<sup>12</sup> Telephone Number Portability, CC Docket No. 95-116, *Second Report and Order*, 12 FCC Rcd 12,281 (1997) (*Second Report and Order*). The requirement that LECs port numbers to wireless carriers has not been applied previously due to extensions of the deadline for wireless carriers’ implementation of LNP. See Telephone Number Portability, Cellular Telecommunications & Industry Association’s Petition for Extension of Implementation Deadlines, CC Docket No. 95-116, *Memorandum Opinion and Order*, 13 FCC Rcd 16315 (1998); Telephone Number Portability, Cellular Telecommunications & Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Memorandum Opinion and Order*, 14 FCC Rcd 3092 (1999); and Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184 and CC Docket No. 95-116, *Memorandum Opinion and Order*, 17 FCC Rcd 14972 (2002).

<sup>13</sup> North American Numbering Council Local Number Portability Selection Working Group Final report and Recommendation to the FCC, Appendix D at 6 (rel. April 25, 1997). This report is available at <http://www.fcc.gov/wcb/tapd/nanc/lnpastuf.html>.

<sup>14</sup> *First Report and Order* at 8431, paras 152-53.

<sup>15</sup> *Id.* at para. 153. See 47 U.S.C. §§ 1, 2, 4(i), and 332.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 8432, para. 153.

<sup>18</sup> 47 U.S.C. § 154(i).

<sup>19</sup> *First Report and Order* at 8432, para. 153.

<sup>20</sup> *Id.* at 8434-36, paras. 157-160.

Commission noted that “service provider portability will encourage CMRS-wireline competition, creating incentives for carriers to reduce prices for telecommunications services and to invest in innovative technologies, and enhancing flexibility for users of telecommunications services.”<sup>21</sup> Commission rules reflecting the wireless LNP requirement provide that, by the implementation deadline, “all covered CMRS providers must provide a long-term database method for number portability ... in switches for which another carrier has made a request for the provision of LNP.”<sup>22</sup>

10. In the Local Number Portability *Second Report and Order*, after adopting NANC guidelines applicable to wireline-to-wireline porting, the Commission directed the NANC to develop standards and procedures necessary to provide for wireless carriers’ participation in local number portability.<sup>23</sup> The Commission indicated its expectation that changes to LNP processes would need to be made to accommodate porting to wireless carriers. The Commission noted that “the industry, under the auspices of NANC, will probably need to make modifications to local number portability standards and processes as it gains experience in implementing number portability and obtains additional information about incorporating CMRS providers into a long-term number portability solution and interconnecting CMRS providers with wireline carriers already implementing their number portability obligations.”<sup>24</sup> In addition, the Commission noted that the NANC would have to consider issues of particular concern to wireless carriers, including how to account for differences between service area boundaries for wireline versus wireless services.<sup>25</sup>

11. In 1998, the NANC submitted a report on the integration of wireless and wireline number portability from its Local Number Portability Administration (LNPA) Working Group to the Common Carrier Bureau (now known as the Wireline Competition Bureau).<sup>26</sup> The report discussed technical issues associated with wireless-to-wireline porting. The report noted that differences between the local serving areas of wireless and wireline carriers affected the porting capabilities of each type of carrier, making it infeasible for some wireline carriers to port-in numbers from wireless subscribers. The report explained that because wireline service is fixed to a specific location the subscriber’s telephone number is limited to use within the rate center within which it is assigned.<sup>27</sup> By contrast, the report noted, because wireless service is mobile and not fixed to a specific location, while the wireless subscriber’s number is associated with a specific geographic rate center, the wireless service is not limited to use within that rate center.<sup>28</sup> As a result of these differences, the report indicated that, if a wireless subscriber seeks to port his or her number to a wireline carrier, but the subscriber’s NPA-NXX is outside of the wireline rate center where the subscriber is located, the wireline carrier may not be able to receive the ported number.<sup>29</sup> The NANC did not reach consensus on a solution to this issue, and reported that this lack of symmetry, referred to as

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<sup>21</sup> *Id.* at 8437, para. 160.

<sup>22</sup> 47 C.F.R. § 52.31(a).

<sup>23</sup> *Second Report and Order* at 12333, para. 90.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 12334, para. 91.

<sup>26</sup> North American Numbering Council Local Number Portability Administration Working Group Report on Wireless Wireline Integration, May 8, 1998, CC Docket No. 95-116 (filed May 18, 1998) (First Report on Wireless Wireline Integration).

<sup>27</sup> *Id.* at 7.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

“rate center disparity,” raises questions by some carriers about competitive neutrality.<sup>30</sup> The Common Carrier Bureau sought comment on the NANC report.<sup>31</sup>

12. The NANC submitted a second report on the integration of wireless and wireline number portability to the Commission in 1999,<sup>32</sup> and a third report in 2000,<sup>33</sup> both focusing on porting interval issues. The second report provided an analysis of the wireline porting interval and considered alternatives to reduce the porting interval for ports between wireless and wireline carriers.<sup>34</sup> The report recommended that each potential alternative be thoroughly developed and investigated.<sup>35</sup> The third report again analyzed the elements of the wireline porting interval and examined whether the length of the porting interval for both intermodal ports and wireline-to-wireline ports could be reduced.<sup>36</sup> The NANC determined that the wireline porting interval should not be reduced, but it was unable to reach a consensus on an intermodal porting interval.<sup>37</sup> Accordingly, we seek comment on the appropriate interval for intermodal porting.<sup>38</sup>

### B. Outstanding Petitions for Declaratory Ruling

13. On January 23, 2003, CTIA filed a petition requesting that the Commission issue a declaratory ruling that wireline carriers have an obligation to port their customers’ telephone numbers to wireless carriers whose service areas overlap the wireline rate center that is associated with the number.<sup>39</sup> In its petition, CTIA claims that some LECs have narrowly construed their LNP obligations with regard to wireless carriers, taking the position that portability is only required where the wireless carrier receiving the number already has a point of presence or numbering resources in the wireline rate center.<sup>40</sup> CTIA urges the Commission to confirm that wireline carriers have an obligation to port to wireless carriers when their respective service areas overlap. CTIA notes that, in several of its decisions, the Commission has found that LNP is necessary to promote competition between the wireless and wireline

<sup>30</sup> Letter from Alan C. Hasselwander, Chairman, NANC to A. Richard Metzger, Jr., Chief, Common Carrier Bureau (filed Apr. 14, 1998).

<sup>31</sup> Common Carrier Bureau Seeks Comment on North American Numbering Council Recommendation Concerning Local Number Portability Administration Wireline and Wireless Integration, CC Docket No. 95-116, *Public Notice*, 13 FCC Rcd 17342 (1998).

<sup>32</sup> North American Numbering Council Local Number Portability Administration Working Group Second Report on Wireless Wireline Integration, June 30, 1999, CC Docket No. 95-116 (filed Nov. 4, 1999) (Second Report on Wireless Wireline Integration).

<sup>33</sup> North American Numbering Council Local Number Portability Administration Working Group Third Report on Wireless Wireline Integration, Sept. 30, 2000, CC Docket no. 95-116 (filed Nov. 29, 2000) (Third Report on Wireless Wireline Integration).

<sup>34</sup> Second Report on Wireless Wireline Integration at section 3.

<sup>35</sup> *Id.* at section 1.1.

<sup>36</sup> Third Report on Wireless Wireline Integration at section 3.

<sup>37</sup> Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau, (filed Nov. 29, 2000).

<sup>38</sup> See paras. 45-51, *infra*.

<sup>39</sup> CTIA Petition for Declaratory Ruling, CC Docket No. 95-116 (filed Jan. 23, 2003) (January 23<sup>rd</sup> Petition).

<sup>40</sup> *Id.* at 3.



industries. CTIA argues that, without Commission action to resolve the deadlock over the rate center disparity issue, the reality of wireline-to-wireless porting will be at risk because many wireline subscribers will be unable to port their numbers to wireless carriers that serve their areas.<sup>41</sup>

14. CTIA also requests that the Commission confirm that a wireline carrier's obligation to port numbers to a wireless carrier can be based on a service-level porting agreement between the carriers, and does not require an interconnection agreement. According to CTIA, number portability requires only that a carrier release a customer's number to another carrier and assign the number to the new carrier in the Number Portability Administration Center (NPAC) database, which is queried solely to identify the carrier that can terminate calls to the customer.<sup>42</sup>

15. The majority of wireless carriers submitting comments support CTIA's request for declaratory ruling. They agree with CTIA that, without Commission action to resolve the rate center issue, the majority of wireline customers will be prevented from porting their number to a wireless carrier.<sup>43</sup> They call for the Commission to reject any proposal that would restrict porting to rate centers where a wireless carrier has already obtained numbers, contending that such a limitation would be inconsistent with the competitive objectives of intermodal LNP and would waste numbering resources.<sup>44</sup>

16. Wireline carriers generally oppose CTIA's petition.<sup>45</sup> Some argue that requiring LECs to port to carriers who do not have a point of interconnection or numbering resources in the same rate center in which the number is assigned would give wireless carriers an unfair competitive advantage over wireline carriers.<sup>46</sup> LECs argue that, in contrast to wireless carriers who have flexibility in establishing their service areas and rates, wireline carriers are governed by state regulations. Under the state regulatory regime, they rate and route local and toll calls based on wireline rate centers. Consequently, LECs contend, wireline service providers do not have the same opportunity that wireless carriers have to offer number portability where the rate center in which the number is assigned does not match the rate center in which the LEC seeks to serve the customer.<sup>47</sup> Others argue that CTIA's petition would amount to a system of location portability rather than service provider portability, causing customer confusion over

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<sup>41</sup> *Id.* at 19.

<sup>42</sup> *Id.* at 3.

<sup>43</sup> AT&T Wireless, Midwest Wireless, Nextel, Sprint, T-Mobile, and US Cellular all filed comments supporting CTIA's January 23<sup>rd</sup> petition. Comments and Reply Comments filed in response to the CTIA's January 23<sup>rd</sup> and May 13<sup>th</sup> petitions are listed in Appendix A.

<sup>44</sup> *See, e.g.*, Sprint Reply Comments on CTIA's January 23<sup>rd</sup> Petition at 9; T-Mobile Comments on CTIA's January 23<sup>rd</sup> Petition at 14-15; and Virgin Mobile Reply Comments on CTIA's January 23<sup>rd</sup> Petition at 4.

<sup>45</sup> Centurytel, Fred Williams & Associates, the Independent Alliance, the Michigan Exchange Carriers Association, NECA and NTCA, the Nebraska Rural Independent Companies, OPASTCO, SBC, TCA, USTA, and Valor Communications all filed comments opposing CTIA's January 23<sup>rd</sup> petition.

<sup>46</sup> *See, e.g.*, Centurytel Comments on CTIA's January 23<sup>rd</sup> Petition at 5-6; Fred Williams & Associates Comments on CTIA's January 23<sup>rd</sup> Petition at 8; SBC Comments on CTIA's January 23<sup>rd</sup> Petition at 1; Letter from Cronan O'Connell, Vice President-Federal Regulatory, Qwest to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116 (filed Oct. 9, 2003) (Qwest Oct. 9<sup>th</sup> *Ex Parte*); and Letter from Kathleen B. Levitz, Vice President-Federal Regulatory, BellSouth to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116 (filed Sept. 9, 2003) (BellSouth Sept. 9<sup>th</sup> *Ex Parte*).

<sup>47</sup> *See, e.g.*, Letter from James C. Smith, Senior Vice President, SBC Telecommunications, Inc. to Michael K. Powell, Chairman, FCC, CC Docket No. 95-116 (filed Aug. 29, 2003) (SBC Aug. 29<sup>th</sup> *Ex Parte*); and BellSouth Sept. 9<sup>th</sup> *Ex Parte*.

the rating of calls.<sup>48</sup> Several LECs also argue that the Commission may not permit intermodal porting outside of wireline rate center boundaries without first issuing a Notice of Proposed Rulemaking.<sup>49</sup> Several rural LECs argue that requiring porting between wireline and wireless carriers where the wireless carriers do not have a point of interconnection in the same rate center as the ported number would raise intercarrier compensation issues, as wireline carriers would be required to transport calls to ported numbers through points of interconnection outside of rural LEC serving areas.<sup>50</sup>

17. On May 13, 2003, CTIA filed a second Petition for Declaratory Ruling. In its petition, CTIA argues that, in addition to the rate center issue that was the subject of its January petition, there are additional LNP implementation issues that have not been resolved by industry consensus and therefore must be addressed by the Commission.<sup>51</sup> Specifically, CTIA requests that the Commission rule on the appropriate length of the porting interval, the necessity of interconnection agreements, a dispute between BellSouth and Sprint concerning the ability of carriers to designate different routing and rating points, definition of the largest 100 Metropolitan Statistical Areas (MSAs), the bona fide request requirement, and whether carriers must support nationwide roaming for customers with ported numbers.

18. On October 7, 2003, we released a Memorandum Opinion and Order addressing carrier requests for clarification of wireless-wireless porting issues.<sup>52</sup> In response to CTIA's May 13<sup>th</sup> petition as well as a Petition for Declaratory Ruling/Application for Review, we concluded that wireless carriers may not impose "business rules" on their customers that purport to restrict carriers' obligations to port numbers upon receipt of a valid request to do so. In addition, we clarified that wireless-to-wireless porting does not require the wireless carrier receiving the number to be directly interconnected with the wireless carrier that gives up the number or to have numbering resources in the rate center associated with the ported number. We clarified that, although wireless carriers may voluntarily negotiate interconnection agreements with one another, such agreements are not required for wireless-to-wireless porting. We confirmed also that, in cases where wireless carriers are unable to reach agreement regarding the terms and conditions of porting, all such carriers must port numbers upon receipt of a valid request from another carrier, with no conditions.

19. We encouraged wireless carriers to complete "simple" ports within the industry-established two and one half hour porting interval and found that no action was necessary regarding the porting of numbers served by Type 1 interconnection because carriers are migrating these numbers to switches served by Type 2 interconnection or are otherwise developing solutions.<sup>53</sup> Finally, we reiterated the requirement that wireless carriers support roaming nationwide for customers with pooled and ported

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<sup>48</sup> See Centurytel Comments on CTIA's January 23<sup>rd</sup> Petition at 4-5.

<sup>49</sup> See, e.g., Letter from Gary Lytle, Qwest to Marlene H. Dortch, Secretary, FCC (filed Oct. 17, 2003) (Qwest Oct. 17<sup>th</sup> *Ex Parte*); and SBC Aug. 29<sup>th</sup> *Ex Parte*.

<sup>50</sup> NECA and NTCA Comments on CTIA's January 23<sup>rd</sup> Petition at 6. 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) (Sprint Petition for Declaratory Ruling).

<sup>51</sup> CTIA Petition for Declaratory Ruling, CC Docket No. 95-116 (filed May 13, 2003) (May 13<sup>th</sup> Petition).

<sup>52</sup> Telephone Number Portability, CC Docket No. 95-116, *Memorandum Opinion and Order*, FCC 03-237, rel. Oct. 7, 2003.

<sup>53</sup> Type 1 numbers reside in an end office of a LEC and are assigned to a Type 1 interconnection group, which connects the wireless carrier's switch and the LEC's end office switch. Type 2 numbers reside in a wireless carrier's switch and are assigned to a Type 2 interconnection group, which connects the wireless carrier's switch and a LEC access tandem switch or end office switch.

numbers, and we addressed outstanding petitions for waiver of the roaming requirement. We indicated our intention to address issues related to intermodal porting in a separate order.<sup>54</sup>

### III. ORDER

#### A. Wireline-to-Wireless Porting

20. *Background.* In its January 23<sup>rd</sup> Petition, CTIA requests that the Commission clarify that the LNP rules require wireline carriers to port numbers to any wireless carrier whose service area overlaps the wireline carrier's rate center that is associated with the ported number.<sup>55</sup> CTIA claims that, absent such a clarification, a majority of wireline customers will not be able to port their phone number to the wireless carrier of their choice because wireless carriers typically have a point of interconnection or numbering resources in only a fraction of the wireline rate centers in their service areas.<sup>56</sup> Citing prior Commission decisions, CTIA notes that the Commission has cited intermodal competition as a basis for imposing LNP requirements on wireless carriers.<sup>57</sup> CTIA argues that the Commission's objectives with respect to intermodal competition cannot be realized without prompt action.

21. *Discussion.* The Act and the Commission's rules impose broad porting obligations on LECs. Section 251(b) of the Act provides that all local exchange carriers "have the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."<sup>58</sup> The Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."<sup>59</sup> In implementing these requirements in the Local Number Portability *First Report and Order*, the Commission determined that LECs were required to provide portability to all other telecommunications carriers, including CMRS service providers, providing local exchange or exchange access service within the same MSA.<sup>60</sup> The Commission's rules reflect these requirements, requiring LECs to offer number portability in switches for which another carrier made a request for number portability and providing that all carriers, including CMRS service providers must be permitted to make requests for number portability.<sup>61</sup>

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<sup>54</sup> Remaining issues from CTIA's January 23<sup>rd</sup> and May 13<sup>th</sup> petitions pertaining to intermodal porting are addressed in this order. Additional issues from CTIA's May 13<sup>th</sup> petition, including the implication of the porting interval for E911, the definition of the 100 largest MSAs, and the bona fide request requirement have been addressed separately. See Letter from John B. Muleta, Chief, Wireless telecommunications Bureau, to John T. Scott, III, Vice President and Deputy General Counsel, Verizon Wireless and Michael F. Altschul, Senior Vice President, General Counsel, CTIA, CC Docket No. 95-116, DA 03-2190, dated July 3, 2003. See also, Numbering Resource Optimization, *Fourth Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket Nos. 99-200 and 95-116 (rel. June 18, 2003).

<sup>55</sup> January 23<sup>rd</sup> Petition at 3.

<sup>56</sup> *Id.* at 18.

<sup>57</sup> *Id.* at 12-16.

<sup>58</sup> 47 U.S.C. § 251(b).

<sup>59</sup> 47 U.S.C. § 153(30).

<sup>60</sup> *First Report and Order* at 8393, 8431, paras. 77 and 152.

<sup>61</sup> 47 C.F.R. § 52.23(b)(1), (b)(2)(i).

22. We conclude that, as of November 24, 2003, LECs 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, provided that the porting-in carrier maintains the number's original rate center designation following the port.<sup>62</sup> Permitting intermodal porting in this manner is consistent with the requirement that carriers support their customers' ability to port numbers while remaining at the same location. For purposes of this discussion, the wireless "coverage area" is the area in which wireless service can be received from the wireless carrier. Permitting wireline-to-wireless porting under these conditions will provide customers the option of porting their wireline number to any wireless carrier that offers service at the same location. We also reaffirm that wireless carriers must port numbers to wireline carriers within the number's originating rate center. With respect to wireless-to-wireline porting, however, because of the limitations on wireline carriers' networks ability to port-in numbers from distant rate centers, we will hold neither the wireline nor the wireless carriers liable for failing to port under these conditions. Rather, we seek comment on this issue in the Further Notice below.

23. We make our determinations based on several factors. First, as stated above, under the Act and the Commission's rules, wireline carriers must port numbers to other telecommunications carriers, to the extent that it is technically feasible to do so, in accordance with regulations prescribed by the Commission.<sup>63</sup> There is no persuasive evidence in the record indicating that there are significant technical difficulties that would prevent a wireline carrier from porting a number to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number. Accordingly, the plain text of the Act and the Commission's rules, requiring LECs to provide number portability applies. In fact, several LECs acknowledge that there is no technical obstacle to porting wireline numbers to wireless carriers whose point of interconnection is outside of the rate center of the ported numbers.<sup>64</sup> Moreover, at least two LECs, Verizon and Sprint, have already established agreements with their wireless affiliates that specifically provide for intermodal porting.<sup>65</sup> In addition, BellSouth indicates in its comments that it has no intention of preventing customers from porting their telephone numbers to wireless carriers upon the customers' requests – regardless of whether or not the

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<sup>62</sup> We anticipate that a minimal amount of identifying information will be transmitted from the wireless carrier to the LEC when a customer seeks to port. For example, carriers may choose to verify the zip code of the porting-out wireline customer in their validation procedures.

<sup>63</sup> 47 U.S.C. § 251(b)(2), 47 C.F.R. § 52.23.

<sup>64</sup> See BellSouth Comments on CTIA's January 23<sup>rd</sup> Petition at 3; and USTA Comments on CTIA's January 23<sup>rd</sup> Petition at 7-8.

Several interexchange carriers (IXCs) have brought to the Commission's attention a problem IXCs face in identifying whether a customer has switched carriers. This problem can result in customers receiving erroneous bills from IXCs after they have switched local or interexchange carriers, and could also be a problem when customers port from a wireline carrier to a wireless carrier. While we do not address this issue in the instant order, we have sought comment on carrier petitions regarding this matter. See Pleading Cycle Established for Comments on Petition for Declaratory Ruling and/or Rulemaking, filed by Americatel Corporation, and for Comments on Joint Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, filed by AT&T Corp., Sprint Corp., and WorldCom, Inc., CG Docket No. 02-386, *Public Notice*, 17 FCC Rcd 25535 (2002).

<sup>65</sup> "Verizon and Verizon Wireless Reach Barrier-Free Porting Agreement in Advance of November 24 Deadline," Press Release from Verizon Wireless dated Sept. 22, 2003, available at <http://news.vzw.com/news/2003/09/pr2003-09-22.html>; and "Sprint Wireless Local Number Portability Plans on Track, on Schedule for November Deadline," Press Release from Sprint dated Oct. 1, 2003, available at [Sprint.com](http://www.sprint.com).

carriers' service areas overlap.<sup>66</sup> Accordingly, BellSouth states, number portability can still occur despite the "rate center disparity" issue. We note that, to the extent that LECs assert an inability to port numbers to wireless carriers under the circumstances described herein, they bear the burden of demonstrating with specific evidence that porting to a wireless carrier without a point of interconnection or numbering resources in the same rate center to which the ported number is assigned is not technically feasible pursuant to our rules.

24. Second, neither the Commission's LNP rules nor any of the LNP orders have required wireless carriers to have points of interconnection or numbering resources in the same rate center as the assigned number for wireline-to-wireless porting. In the Local Number Portability *Second Report and Order*, the Commission adopted NANC recommendations regarding several specific aspects of number portability implementation, including technical and operational standards for the provision of number portability by wireline carriers.<sup>67</sup> In this context, the Commission adopted the NANC recommendations concerning the boundaries applicable to wireline-to-wireline porting. Specifically, the Commission adopted NANC recommendations limiting the scope of ports to wireline carriers based on wireline carriers' inability to receive numbers from foreign rate centers.<sup>68</sup>

25. In this order, we address a different issue, wireline-to-wireless porting. The NANC recommendations that were the subject of the *Second Report and Order* included a boundary for wireline-to-wireline porting, but were silent regarding wireline-to-wireless porting issues. In adopting the NANC recommendations, the Commission specifically recognized that the NANC had not included recommendations regarding wireless carriers' participation in number portability and that modifications to existing standards and procedures would probably need to be made as the industry obtained additional information about incorporating CMRS service providers into a long-term number portability solution and interconnecting CMRS carriers with wireline carriers already implementing number portability.<sup>69</sup> However, while the Commission noted that NANC should consider intermodal porting issues of concern to wireless carriers, it did not impose limits on wireline-to-wireless porting while NANC considered these issues, nor did it give up its inherent authority to interpret the statute and rules with respect to the obligation of wireline carriers to port numbers to wireless carriers. Accordingly, we find that in light of the fact that the Commission has never adopted any limits regarding wireline-to-wireless number portability, as of November 24, 2003, LECs must port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned.<sup>70</sup>

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<sup>66</sup> See BellSouth Comments on CTIA's January 23<sup>rd</sup> Petition at 3. In recent ex parte filings, BellSouth argues that the Commission cannot proceed to require intermodal porting until it addresses the issues arising from the differences in network architecture, operational support systems, and regulatory requirements that distinguish wireline carriers from wireless carriers. See, e.g., BellSouth Sept. 9<sup>th</sup> *Ex Parte*.

<sup>67</sup> See *Second Report and Order*. Subsequent NANC reports address technical issues associated with wireless-to-wireline porting. In the Further Notice, we seek comment on these technical feasibility issues.

<sup>68</sup> North American Numbering Council Local Number Portability Selection Working Group Final Report and Recommendation to the FCC, Appendix D at 6 (rel. April 25, 1997). This report is available at [www.fcc.gov/wcb/tapd/nanc/lnpastuf.html](http://www.fcc.gov/wcb/tapd/nanc/lnpastuf.html).

<sup>69</sup> *Second Report and Order* 12 FCC Rcd at 12333-34.

<sup>70</sup> Similarly, wireless-to-wireline porting is required, as of November 24, 2003, where the requesting carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned.

26. We reject the argument advanced by certain wireline carriers,<sup>71</sup> that requiring LECs to port to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number would constitute a new obligation imposed without proper notice. In fact, the requirement that LECs port numbers to wireless carriers is not a new rule. Citing the D.C. Circuit's decision in the *Sprint* case specifying the distinction between clarifications of existing rules and new rulemakings subject to APA procedures, Qwest, for example, argues that the permitting wireline-to-wireless porting in the manner outlined above would change LECs' existing porting obligations.<sup>72</sup> As described earlier, however, section 251(b) of the Act and the Commission's Local Number Portability *First Report and Order* impose broad porting obligations on wireline carriers. Specifically, these authorities require wireline carriers to provide portability to all other telecommunications carriers, including wireless service providers. While the Commission decision in the Local Number Portability *Second Report and Order* limited the scope of wireline carriers' porting obligation with respect to the boundary for wireline-to-wireline porting, the Commission, as noted above, has never established limits with respect to wireline carriers' obligation to port to wireless carriers. The clarifications we make in this order interpret wireline carriers' existing obligation to port numbers to wireless carriers. Therefore, these clarifications comply with the requirements of the Administrative Procedure Act as well as the D.C. Circuit's decision in the *Sprint* case.

27. We also reject the argument made by some LECs that the scope of wireline-to-wireless porting should be limited because wireline carriers may not be able to offer portability to certain wireless subscribers.<sup>73</sup> As discussed above, under the Act and the Commission's rules, wireline carriers must port numbers to other telecommunications carriers, to the extent technically feasible. The fact that there may be technical obstacles that could prevent some other types of porting does not justify denying wireline consumers the benefit of being able to port their wireline numbers to wireless carriers. Each type of service offers its own advantages and disadvantages (e.g., wireless service offers mobility and larger calling areas, but also the potential for dropped calls) and wireline customers will consider these attributes in determining whether or not to port their number. In our view, it would not be appropriate to prevent wireline customers from taking advantage of the mobility or the larger local calling areas associated with wireless service simply because wireline carriers cannot currently accommodate all potential requests from customers with wireless service to port their numbers to a wireline service provider. Evidence from the record shows that limiting wireline-to-wireless porting to rate centers where a wireless carrier has a point of interconnection or numbering resources would deprive the majority of wireline consumers of the ability to port their number to a wireless carrier.<sup>74</sup> With such limited intermodal porting, the competitive benefits we seek to promote through the porting requirements may not be fully achieved. The focus of the porting rules is on promoting competition, rather than protecting individual competitors. To the extent that wireline carriers may have fewer opportunities to win customers through porting, this disparity results from the wireline network architecture and state regulatory requirements, rather than Commission rules.

28. We conclude that porting from a wireline to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number does not, in and of itself, constitute location portability, because the rating of calls to the ported number stays the same. As stated above, a wireless carrier porting-in a wireline number is required to maintain the number's original rate center designation following the port. As a result, calls to the ported number will continue to be rated

<sup>71</sup> See, e.g., Letter from Gary Lytle, Qwest to Marlene H. Dortch, Secretary, FCC (filed Oct. 17, 2003) (Qwest Oct. 17<sup>th</sup> *Ex Parte*); and SBC Aug. 29 *Ex Parte*.

<sup>72</sup> Qwest Oct. 17<sup>th</sup> *Ex Parte* at 11. See *Sprint Corp. v. FCC*, 315 F. 3d 369 (D.C. Cir. 2003).

<sup>73</sup> See, e.g., SBC Aug. 29<sup>th</sup> *Ex Parte* and BellSouth Sept. 9<sup>th</sup> *Ex Parte*.

<sup>74</sup> January 23<sup>rd</sup> Petition at 6.

in the same fashion as they were prior to the port. As to the routing of calls to ported numbers, it should be no different than if the wireless carrier had assigned the customer a new number rated to that rate center.<sup>75</sup>

29. Some wireline carriers contend that they lack the technical capability to support wireline-to-wireless porting in the manner outlined above, and that they need time to make technical modifications to their systems. We emphasize that our holding in this order requires wireline carriers to support wireline-to-wireless porting in accordance with this order by November 24, 2003, unless they can provide specific evidence demonstrating that doing so is not technically feasible pursuant to our rules.<sup>76</sup> We expect carriers that need to make technical modifications to do so forthwith, as the record indicates that major system modifications are not required and that several wireline carriers have already announced their technical readiness to port numbers to wireless carriers without regard to rate centers.<sup>77</sup> We recognize, however, that many wireline carriers outside the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability. In addition we note that wireless carriers outside the top 100 MSAs are not required to provide LNP prior to May 24, 2004, and accordingly are unlikely to seek to port numbers from wireline carriers prior to that date. Therefore for wireline carriers operating in areas outside of the 100 largest MSAs, we hereby waive, until May 24, 2004, 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 customer's wireline number is provisioned. We find that this transition period will help ensure a smooth transition for carriers operating outside of the 100 largest MSAs and provide them with sufficient time to make necessary modifications to their systems.

30. Carriers inside the 100 largest MSAs (or outside the 100 largest MSAs, after the transition period) may file petitions for waiver of their obligation to port numbers to wireless carriers, if they can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules.<sup>78</sup> We note that several wireline carriers have already filed requests for waiver.<sup>79</sup> We will

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<sup>75</sup> As noted in paras. 39-40 below, there is a dispute as to which carrier is responsible for transport costs when the routing point for the wireless carrier's switch is located outside the wireline local calling area in which the number is rated. See Sprint Petition for Declaratory Ruling. The existence of this dispute over transport costs does not, however, provide a reason to delay or limit the availability of porting from wireline to wireless carriers.

We recognize that the Act limits wireline carriers' ability to route calls outside of Local Access Transport Area (LATA) boundaries. See 47 U.S.C. § 272. See also, Application by SBC Communications, Inc., Southwestern Bell Telephone, and Southwestern Bell Communications, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, *Memorandum Opinion and Order*, 15 FCC Rcd 18354 (2000). Accordingly, we clarify that our ruling is limited to porting within the LATA where the wireless carrier's point of interconnection is located, and does not require or contemplate porting outside of LATA boundaries.

<sup>76</sup> 47 U.S.C. § 251(b). We anticipate that, as a general matter, enforcement issues regarding both wireless-wireless and wireless-wireline local number portability at this time are likely to be better addressed in the context of Section 208 formal compliant proceedings or related mediations as opposed to FCC-initiated forfeiture proceedings. In this connection, we note that a violation of our number portability rules would constitute an unjust and unreasonable practice under section 201(b) of the Act.

<sup>77</sup> We note that Verizon has already announced its intention to port numbers without regard to rate centers. See "Verizon and Verizon Wireless Reach Barrier-Free Porting Agreement in Advance of November 24 Deadline," Press Release from Verizon Wireless dated Sept. 22, 2003, available at <http://news.vzw.com/news/2003/09/pr2003-09-22.html>.

<sup>78</sup> 47 C.F.R. § 1.3, 52.25(e). See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

consider these requests separately, and our decision in this order is without prejudice to any potential disposition of these requests.

## B. Interconnection Agreements

31. *Background.* In its January 23<sup>rd</sup> petition, CTIA requests that the Commission confirm that a wireline carrier's obligation to port numbers to a wireless carrier requires only that a carrier release a customer's number to another carrier and assign the number to the new carrier in the Number Portability Administration Center (NPAC) database, which is queried solely to identify the carrier that can terminate calls to the customer. From a practical perspective, CTIA contends, such porting can be based on a service-level porting agreement between carriers, and does not require direct interconnection or an interconnection agreement. Moreover, CTIA argues, because the Commission imposed number portability requirements on wireless carriers pursuant to its authority under sections 1, 2, 4(i), and 332 of the Act, and outside the scope of sections 251 and 252, number portability between wireline and wireless carriers is governed by a different regime than number portability between wireline carriers and is subject to the Commission's unique jurisdiction over wireless carriers.<sup>80</sup>

32. A number of wireless carriers agree with CTIA, arguing that requiring wireless carriers to establish interconnection agreements with wireline carriers from whom they sought to port numbers would delay LNP implementation.<sup>81</sup> Several wireline carriers, however, assert that interconnection agreements for porting are necessary.<sup>82</sup> SBC, for example, argues that under sections 251 and 252 of the Act, LECs must establish interconnection agreements for porting.<sup>83</sup> SBC contends that interconnection agreements guarantee parties their right to negotiate, provide a means of resolving disputes, and allow public scrutiny of agreements.<sup>84</sup> In addition, some LECs argue that, without interconnection agreements, they have no means to ensure that they will receive adequate compensation for transporting and terminating traffic to wireless carriers.

33. Other LECs, on the other hand, disagree that interconnection agreements are a necessary precondition to intermodal porting. Verizon contends that intermodal porting is not a Section 251 requirement and is therefore not necessary to incorporate wireless-wireline porting into Section 251 agreements.<sup>85</sup> AT&T questions whether either service level agreements or interconnection agreements are necessary, contending that because such little information needs to be exchanged between carriers for porting, less formal arrangements may be sufficient.<sup>86</sup> Sprint argues that interconnection agreements are

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<sup>79</sup> See e.g., Franklin Telephone Company, Inc. Petition for Waiver, CC Docket Nos. 95-116 (filed Sept. 24, 2003); Intercommunity Telephone Company, LLC Petition for Waiver, CC Docket No. 95-116 (filed Sept. 24, 2003); and North Central Telephone Cooperative, Inc. Petition for Waiver, CC Docket No. 95-116 (filed Sept. 24, 2003).

<sup>80</sup> May 13<sup>th</sup> Petition at 17-18.

<sup>81</sup> See Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 16; T-Mobile Comments on CTIA's May 13<sup>th</sup> Petition at 8; and Virgin Mobile Comments on CTIA's May 13<sup>th</sup> Petition at 4-5.

<sup>82</sup> See Missouri Independent Telephone Company Group Comments on CTIA's May 13<sup>th</sup> Petition; National Telecommunications Cooperative Association Comments on CTIA's May 13<sup>th</sup> Petition; and SBC Comments on CTIA's May 13<sup>th</sup> Petition.

<sup>83</sup> SBC Comments on CTIA's May 13<sup>th</sup> Petition at 8.

<sup>84</sup> *Id.*

<sup>85</sup> Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 18; Verizon Comments on CTIA's May 13<sup>th</sup> Petition at 10.

<sup>86</sup> AT&T Reply Comments on CTIA's May 13<sup>th</sup> Petition at 7-8.



not required for LNP because whether or not a customer ports a number from one carrier to another has nothing to do with the interconnection arrangements two carriers use for the exchange of traffic.<sup>87</sup> Several LECs urge the Commission to let carriers determine on their own what type of agreement to use to facilitate porting.<sup>88</sup>

34. *Discussion.* We find that wireless carriers need not enter into section 251 interconnection agreements with wireline carriers solely for the purpose of porting numbers. We note that the intermodal porting obligation is also based on the Commission's authority under sections 1, 2, 4(i) and 332 of the Act. Sprint argues that interconnection agreements are not required to implement every section 251 obligation.<sup>89</sup> Sprint also claims that because porting involves a limited exchange of data (e.g., carriers need only share basic contact and technical information sufficient to allow porting functionality and customer verification to be established), interconnection agreements should not be required here.<sup>90</sup> We agree with Sprint that wireline carriers should be required to port numbers to wireless carriers without necessarily entering into an interconnection agreement because this obligation can be discharged with a minimal exchange of information. We thus find that wireline carriers may not unilaterally require interconnection agreements prior to intermodal porting. Moreover, to avoid any confusion about the applicability of section 252 to any arrangement between wireline and wireless carriers solely for the purpose of porting numbers, we forbear from these requirements as set forth below.

35. To the extent that the *Qwest Declaratory Ruling Order* could be interpreted to require any agreement pertaining solely to wireline-to-wireless porting to be filed as an interconnection agreement with a state commission pursuant to sections 251 and 252 of the Act, we forbear from those requirements. First, we conclude that interconnection agreements are not necessary to prevent unjust or unreasonable charges or practices by wireless carriers with respect to porting. The wireless industry is characterized by a high level of competition between carriers. Although states do not regulate the prices that wireless carriers charge, the prices for wireless service have declined steadily over the last several years.<sup>91</sup> No evidence suggests that requiring interconnection agreements for intermodal porting is necessary for this trend to continue.

36. For similar reasons, we find that interconnection agreements for intermodal porting are not necessary for the protection of consumers.<sup>92</sup> The intermodal LNP requirement is intended to benefit

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<sup>87</sup> Letter from Luisa L. Lancetti, Vice President, PCS Regulatory Affairs, Sprint to John Rogovin, General Counsel, FCC (filed Sept. 22, 2003).

<sup>88</sup> See Association for Local Telecommunications Services Reply Comments on CTIA's May 13<sup>th</sup> Petition at 3, BellSouth Comments on CTIA's May 13<sup>th</sup> Petition at 9; and USTA Reply Comments on CTIA's May 13<sup>th</sup> Petition at 6.

<sup>89</sup> See note 87.

<sup>90</sup> Sprint's profile information exchange process is an example of the type of contact and technical information that would trigger an obligation to port. See, Letter from Luisa L. Lancetti, Vice President PCS Regulatory Affairs, Sprint Corp. to John B. Muleta, Chief, Wireless Telecommunications Bureau (filed Sept. 23, 2003); and Letter from Luisa L. Lancetti, Vice President, PCS Regulatory Affairs, Sprint Corp. to John B. Muleta, Chief, Wireless Telecommunications Bureau and William Maher, Chief, Wireline Competition Bureau (filed August 8, 2003).

<sup>91</sup> Implementation of Section 6002(b) of the Omnibus Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Eighth Report*, FCC 03-150, at 45 (rel. July 14, 2003).

<sup>92</sup> Certain LECs have expressed concern that without interconnection agreements between LECs and CMRS carriers, calls to ported numbers may be dropped, because NPAC queries may not be performed for customers who have ported their numbers from a LEC to a CMRS carrier. See Letter from Mary J. Sisak, Counsel for Centurytel, Inc. to Marlene H. Dortch, Secretary, FCC (filed Oct. 23, 2003). We do not find these concerns to be justified,

consumers by promoting competition between the wireless and wireline industries and creating incentives for carriers to provide new service offerings, reduced prices, and higher quality services. Requiring interconnection agreements for the purpose of intermodal porting could undermine the benefits of LNP to consumers by preventing or delaying implementation of intermodal porting. We also do not believe that the state regulatory oversight mechanism provided by Section 251 is necessary to protect consumers in this limited instance.

37. Finally, we conclude that forbearance is consistent with the public interest. Number portability, by itself, does not create new obligations with regard to exchange of traffic between the carriers involved in the port. Instead, porting involves a limited exchange of data between carriers to carry out the port. Sprint, for example, notes that to accomplish porting, carriers need only exchange basic contact information and connectivity details, after which the port can be rapidly accomplished.<sup>93</sup> Given the limited data exchange and the short time period required to port, we conclude that interconnection agreements approved under section 251 are unnecessary. In view of these factors, we conclude that it is appropriate to forbear from requiring interconnection agreements for intermodal porting.

### C. The Porting Interval

38. CTIA requests that the Commission require wireline carriers to reduce the length of the porting interval, or the amount of time it takes two carriers to complete the process of porting a number, for ports from wireline to wireless carriers.<sup>94</sup> Currently, the wireline-to-wireline porting interval is four business days.<sup>95</sup> The wireline porting interval was adopted by the NANC in its Architecture and Administrative Plan for Local Number Portability, which was approved by the Commission.<sup>96</sup> Upon subsequent review of the porting interval, the NANC agreed that the four business day porting interval for wireline-to-wireline porting should not be reduced; it did not specify a porting interval for intermodal porting.<sup>97</sup> The current porting interval for wireless-to-wireless ports is two and one half hours.<sup>98</sup> We decline to require wireline carriers to follow a shorter porting interval for intermodal ports at this time. Instead, we will seek comment on this issue in the Further Notice. We note that, while we seek comment on whether to reduce the length of the wireline porting interval, the current four business day porting

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however, because the Commission's rules require carriers to correctly route calls to ported numbers. *See* Telephone Number Portability, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7307-08, paras. 125-126.

<sup>93</sup> Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 13-14.

<sup>94</sup> May 13<sup>th</sup> Petition at 7.

<sup>95</sup> Wireline carriers are required to complete the LSR/FOC exchange within 24 hours and complete the port within three business days thereafter. *See* North American Numbering Council Local Number Portability Selection Working Group Final Report and Recommendation to the FCC, Appendix E (rel. April 25, 1997).

<sup>96</sup> *Second Report and Order*, 12 FCC Rcd 12281 (1997)

<sup>97</sup> Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau, (filed Nov. 29, 2000).

<sup>98</sup> *See* North American Numbering Council Local Number Portability Administration Working Group Report on Wireless Wireline Integration, May 8, 1998, CC Docket No. 95-116 (filed May 18, 1998) (First Report on Wireless Wireline Integration); North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability Technical, Operational, and Implementation Requirements Phase II, CC Docket No. 95-116 (filed Sept. 26, 2000); ATIS Operations and Billing Forum, Wireless Inter-carrier Communications: Interface Specification for Local Number Portability, Version 2, at § 2 p. 6 (Jan. 2003).

interval represents the outer limit of what we would consider to be a reasonable amount of time in which wireline carriers may complete ports. We note also that whatever porting interval affiliated wireline and wireless service providers offer within their corporate family must also be made available to unaffiliated service providers.<sup>99</sup>

#### **D. Impact of Designating Different Routing and Rating Points on LNP**

39. CTIA asks the Commission to resolve the intercarrier dispute between BellSouth and Sprint as it affects the rating and routing of calls to ported numbers.<sup>100</sup> CTIA contends that, although the dispute largely concerns matters of intercarrier compensation, to the extent LECs argue that they need not differentiate between rating and routing points for local calls, intermodal porting may not be available to consumers.<sup>101</sup> To ensure that permitting porting beyond wireline rate center boundaries does not cause customer confusion with respect to charges for calls, we clarify that ported numbers must remain rated to their original rate center. We note, however, that the routing will change when a number is ported. Indeed, several wireline carriers have expressed concern about the transport costs associated with routing calls to ported numbers. The National Exchange Carrier Association (NECA) and National Telecommunications Cooperative Association (NTCA), for example, argue in their joint comments, that when wireless carriers establish a point of interconnection outside of a rural LEC's serving area, a disproportionate burden is placed on rural LECs to transport originating calls to the interconnection points.<sup>102</sup> They argue that requiring wireline carriers to port telephone numbers to out-of-service area points of interconnection could create an even bigger burden. Other carriers point out, however, that issues associated with the rating and routing of calls to ported numbers are the same as issues associated with rating and routing of calls to all wireless numbers.<sup>103</sup>

40. We recognize the concerns of these carriers, but find that they are outside the scope of this order. As noted above, our declaratory ruling with respect to wireline-to-wireless porting is limited to ported numbers that remain rated in their original rate centers. We make no determination, however, with respect to the routing of ported numbers, because the requirements of our LNP rules do not vary depending on how calls to the number will be routed after the port occurs. Moreover, as CTIA notes, the rating and routing issues raised by the rural wireline carriers have been raised in the context of non-ported numbers and are before the Commission in other proceedings.<sup>104</sup> Therefore, without prejudging the outcome of any other proceeding, we decline to address these issues at this time as they relate to intermodal LNP.

### **IV. FURTHER NOTICE OF PROPOSED RULEMAKING**

#### **A. Wireless-to-Wireline Porting**

41. *Background.* As noted above, some LECs argue that allowing wireless carriers to port numbers wherever their coverage area overlaps the rate center in which the number is assigned would

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<sup>99</sup> 47 U.S.C. §§ 201(b) and 202(a).

<sup>100</sup> May 13<sup>th</sup> Petition at 25-26.

<sup>101</sup> *Id.*

<sup>102</sup> NECA and NTCA Comments on CTIA's January 23<sup>rd</sup> Petition at 6.

<sup>103</sup> BellSouth Comments on CTIA's May 13<sup>th</sup> Petition at 11-12.

<sup>104</sup> See, e.g. 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).

give wireless service providers an unfair competitive advantage over wireline carriers.<sup>105</sup> They contend that while this may facilitate widespread wireline-to-wireless porting, wireless-to-wireline porting can only occur in cases where the wireless customer is physically located in the wireline rate center associated with the phone number.<sup>106</sup> If the customer's physical location is outside the rate center associated with the number, porting the number to a wireline telephone at the customer's location could result in calls to and from that number being rated as toll calls. As a result, the LECs assert, they are effectively precluded from offering wireless-to-wireline porting to those wireless subscribers who are not located in the wireline rate center associated with their wireless numbers.<sup>107</sup> Furthermore, the LECs contend that for them to offer wireless-to-wireline porting in this context would require significant and costly operational changes.<sup>108</sup> Qwest, for example, argues that if the Commission were to make the Local Access Transport Area (LATA) or Numbering Plan Area (NPA) the relevant geographic area for porting, LECs would be required to upgrade switches, increase trunking, and rework billing and provisioning systems.<sup>109</sup>

42. *Discussion.* We seek comment on how to facilitate wireless-to-wireline porting where there is a mismatch between the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer. Some wireline commenters contend that requiring porting between wireline and wireless carriers where the wireless carrier does not have a point of interconnection or numbering resources in the rate center creates a competitive disparity because wireline carriers would not have the same flexibility to offer porting to wireless customers whose numbers are not associated with the wireline rate center. We seek comment on the technical impediments associated with requiring wireless-to-wireline LNP when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. We seek comment on whether technical impediments exist to such an extent as to make wireless-to-wireline porting under such circumstances technically infeasible. Commenters that contend there are technical implications should specifically describe them, including any upgrades to switches, network facilities, or operational support systems that would be necessary. Commenters should also provide detailed information on the magnitude of the cost of such upgrades along with documentation of the estimated costs. We also seek comment on whether the benefits associated with offering wireless-to-wireline porting would outweigh the costs associated with making any necessary upgrades. We seek comment on the expected demand for wireless-to-wireline porting. We note that wireline customers who decide to port their numbers to wireless carriers are able to port their numbers back to wireline carriers if they choose, because the numbers remain associated with their original rate centers.

43. In addition to technical factors, we seek comment on whether there are 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. Commenters that suggest such obstacles exist and result in a competitive disadvantage should submit proposals to address these impediments, as well as consider the collateral effect on other regulatory objectives as a result of these proposals. We note that wireline carriers are not able to port a number to another wireline carrier if the rate center associated with the number does not match the rate center associated with the customer's

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<sup>105</sup> See, e.g., Centurytel Comments on CTIA's January 23<sup>rd</sup> Petition at 5-6; Fred Williams & Associates Comments on CTIA's January 23<sup>rd</sup> Petition at 8; and SBC Comments on CTIA's January 23<sup>rd</sup> Petition at 1.

<sup>106</sup> See, e.g., Qwest Oct. 9<sup>th</sup> *Ex Parte*; and Letter from Herschel L. Abbott, Jr., Vice President-Government Affairs, BellSouth to Michael K. Powell, Chairman, FCC (filed Oct. 14, 2003).

<sup>107</sup> *Id.*

<sup>108</sup> See Letter from Cronan O'Connell, Vice President-Federal Regulatory, Qwest to Marlene H. Dortch, Secretary, FCC (filed July 24, 2003) at 4-5 (Qwest July 24<sup>th</sup> *Ex Parte*); and SBC Aug. 29<sup>th</sup> *Ex Parte*.

<sup>109</sup> See Qwest July 24<sup>th</sup> *Ex Parte* at 4-5.

physical location. We seek comment on whether wireless and wireline numbers should be treated differently in this regard. We also seek comment on whether there are any potential adverse impacts to consumers resulting from wireless-to-wireline porting where the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer.

44. In addition, we seek comment on whether there are other competitive issues that could affect our LNP requirements. For example, to the extent that wireless-to-wireline porting may raise issues regarding the rating of calls to and from the ported number when the rate center of the ported number and the physical location of the customer do not match, we seek comment on the extent to which wireline carriers should absorb the cost of allowing the customer with a number ported from a wireless carrier to maintain the same local calling area that the customer had with the wireless service provider. Alternatively, we seek comment on the extent to which wireline carriers can serve customers with numbers ported from wireless carriers on a Foreign Exchange (FX) or virtual FX basis.<sup>110</sup> A third option is for wireline carriers to seek rate design and rate center changes at the state level to establish larger wireline local calling areas. We seek comment on the procedural, technical, financial, and regulatory implications of each of these approaches. We also seek comment on the viability of each of these approaches and whether there are any alternative approaches to consider.

## B. Porting Interval

45. *Background.* Over the past several years, the NANC has studied the wireline porting interval and reviewed options for reducing the length of the interval for simple ports.<sup>111</sup> In the Third Report on Wireless/Wireline Integration, the Local Number Portability Administration Working Group analyzed the elements of the wireline porting interval and investigated how reducing the length of the interval for simple ports would affect carriers' operations.<sup>112</sup> The report noted that reducing the porting interval would require wireline carriers to make significant changes to their operations. First, reducing the porting interval would require wireline carriers to automate and make uniform the Local Service Request (LSR)/Local Service Request Confirmation (LSC) Firm Order Confirmation (FOC) process.<sup>113</sup> In addition, the report indicated that wireline carriers would likely have to eliminate or adjust their batch processing operations. The report noted that a change from batch processing to real time data processing would require in-depth system analysis of all business processes that use batch processing systems.<sup>114</sup> Based on its analysis of these and other challenges, the working group concluded that because most wireline carriers already found their processes and systems challenged to meet the current porting interval it was not feasible to reduce the length of the wireline porting interval for simple ports.<sup>115</sup>

46. Because of the number and complexity of changes that would be required in the porting process for wireline carriers, the NANC was not able to reach consensus on reducing the porting interval

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<sup>110</sup> T-Mobile Comments on CTIA's January 23<sup>rd</sup> Petition at 11.

<sup>111</sup> See Second Report on Wireless Wireline Integration; Third Report on Wireless Wireline Integration.

<sup>112</sup> See Third Report on Wireless Wireline Integration. Simple ports are defined as those ports that: do not involve unbundled network elements, involve an account for a single line (porting a single line from a multi-line account is not a simple port), do not include complex switch translations (e.g., Centrex or Plexar, ISDN, AIN services, remote call forwarding, multiple services on the loop), may include CLASS features such as Caller ID, and do not include a reseller. All other ports are considered "complex" ports. *Id.* at 6.

<sup>113</sup> *Id.* at 13.

<sup>114</sup> *Id.* at 13-14.

<sup>115</sup> *Id.* at 14.

to accommodate intermodal porting.<sup>116</sup> The wireless industry expressed concern that the wireline four business day porting interval does not fit within its business model.<sup>117</sup> In order to accommodate the wireless business model, the NANC attempted to shorten the porting interval for wireline-to-wireless ports by developing a process that will allow the wireless carrier to activate the port before the wireline carrier activates the disconnect in the Number Portability Administration Center (NPAC). This process results in a situation referred to as a “mixed service” condition, whereby the customer can make calls on both the wireline and wireless phones before the port is completed. The NANC reported that this mixed service condition can result in misdirected callbacks in an emergency situation.<sup>118</sup> That is, for example, if the emergency operator attempts to callback a person that made a call from the wireless phone, the call may be routed to the wireline phone. The NANC consulted with the National Emergency Number Association and concluded that, while the mixed service condition is not desirable, the incidence of such is low and would not impede intermodal porting.<sup>119</sup>

47. LECs contend that their current porting interval cannot be reduced readily for intermodal porting, because it is necessary to support the complex systems and procedures of wireline carriers.<sup>120</sup> SBC, for example, explains that the current porting interval not only ensures that the porting out carrier correctly ports a number to the porting in carrier, but also that these carriers accurately update other systems, including E911, billing, and maintenance.<sup>121</sup> Qwest notes that wireline carriers have longer porting intervals due to differences in network and system configurations.<sup>122</sup> Qwest indicates that wireline carriers are often constrained by the provisioning of physical facilities (e.g., loops) to serve customers.<sup>123</sup> Moreover, LECs contend, reducing the length of the current wireline porting interval would require them to make changes to many of their systems and would involve significant expense.<sup>124</sup>

48. Wireless carriers argue that a reduced intermodal porting interval would encourage more consumers to use porting by eliminating confusion about the porting process.<sup>125</sup> They argue that a reduced porting interval is technically achievable and that wireline carriers should be required to make the

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<sup>116</sup> Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau (filed Nov. 29, 2000).

<sup>117</sup> Wireline carriers are required to complete the LSR/FOC exchange within 24 hours and complete the port within three business days thereafter. *See* North American Numbering Council Local Number Portability Selection Working Group Final Report and Recommendation to the FCC, Appendix E (rel. April 25, 1997). *See also* Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau (filed Nov. 29, 2000).

<sup>118</sup> *See* Second Report on Wireless Wireline Integration.

<sup>119</sup> *See* Letter from John R. Hoffman, Chair, NANC to Dorothy Attwood, Chief, Common Carrier Bureau, FCC, dated Nov. 29, 2000.

<sup>120</sup> *See* letter from Kathleen Levitz, Vice President-Federal Regulatory, BellSouth to Marlene H. Dortch, Secretary, FCC, dated Oct. 15, 2003.

<sup>121</sup> SBC Aug. 29<sup>th</sup> *Ex Parte*.

<sup>122</sup> Qwest Comments on CTIA’s May 13<sup>th</sup> Petition at 7.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at 5.

<sup>125</sup> *See, e.g.,* AT&T Wireless Comments on CTIA’s May 13<sup>th</sup> Petition at 3-6; Sprint Comments on CTIA’s May 13<sup>th</sup> Petition at 6-12; and T-Mobile Comments on CTIA’s May 13<sup>th</sup> Petition at 7-9.

necessary changes to their systems. At least one wireless carrier recognizes, however, that significant changes to LEC systems may be required to achieve reduced porting intervals.<sup>126</sup>

49. *Discussion.* Reducing the porting interval could benefit consumers by making it quicker for consumers to port their numbers. To that end, wireless carriers intend to complete intramodal wireless ports within two and one-half hours.<sup>127</sup> There, however, may be technical or practical impediments to requiring wireline carriers to achieve shorter porting intervals for intermodal porting. We seek comment on whether we should reduce the current wireline four business day porting interval for intermodal porting. If so, what porting interval should we adopt? Commenters proposing a shorter porting interval should specify what adjustments should be made to the LNP process flows developed by the NANC.<sup>128</sup> For example, the wireline NANC LNP Process Flows establish that the FOC must be finalized within 24 hours of receiving the port request.<sup>129</sup> Specific time periods are also established for other steps within the porting process that may require adjustment in the event that a shorter porting interval is adopted.

50. We also seek comment on whether adjustments to the NPAC processes, including interfaces and porting triggers, would be required.<sup>130</sup> In addition, we seek comment on the risks, if any, associated with reducing the porting interval for intermodal porting. We seek comment on an appropriate transition period in the event a shorter porting interval is adopted, during which time carriers can modify and test their systems and procedures.

51. We seek input from the NANC on reducing the interval for intermodal porting. The NANC recommendation should include corresponding updates to the NANC LNP process flows and any recommendations on an appropriate transition period. The NANC should provide its recommendations promptly as we intend to review the record and address this issue expeditiously.

## V. PROCEDURAL MATTERS

### A. Initial Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities of the proposals suggested in the *Further Notice*. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to the *Further Notice*, and must have a separate and distinct heading designating them as responses to the IRFA.

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<sup>126</sup> See Sprint Comments on CTIA's May 13<sup>th</sup> Petition.

<sup>127</sup> See First Report on Wireless Wireline Integration; North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability Technical, Operational, and Implementation Requirements Phase II, CC Docket No. 95-116 (filed Sept. 26, 2000); and ATIS Operations and Billing Forum, Wireless Intercarrier Communications: Interface Specification for Local Number Portability, Version 2, at § 2 p. 6 (Jan. 2003).

<sup>128</sup> See Local Number Portability Selection Working Group Final Report and Recommendation to the FCC (rel. April 25, 1997).

<sup>129</sup> FOC, or Firm Order Confirmation refers to the response the old service provider sends to the new service provider upon receiving the new service provider's request to port a number, setting a due time and date for the port. See Local Number Portability Selection Working Group Final Report and Recommendation to the FCC (rel. April 25, 1997).

<sup>130</sup> The NPAC, administered by NeuStar, operates and maintains the centralized databases associated with LNP. Interaction with the NPAC is required for all porting transactions.

## B. Paperwork Reduction Analysis

53. This *Further Notice* contains no new or revised information collections.

## C. Ex Parte Presentations

54. This is a permit-but-disclose notice and comment rule making proceeding. Members of the public are advised that ex parte presentations are permitted, provided they are disclosed under the Commission's Rules.<sup>131</sup>

## D. Comment Dates

55. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before twenty (20) days from the date of publication of this *Further Notice* in the Federal Register and reply comments thirty (30) days from the date of publication of this *Further Notice* in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

56. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rule making number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an E-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should including the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

57. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rule making number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room TW-A306, 445 12th Street, S.W., Washington, D.C. 20554.

58. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered diskette filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be

<sup>131</sup> See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).



disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to: 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, the docket number of this proceeding, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554.

59. Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202)418-7426, TTY (202) 418-7365, or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This Further Notice can be downloaded in ASCII Text format at: <http://www.fcc.gov/wtb>.

#### **E. Further Information**

60. For further information concerning this Further Notice of Proposed Rulemaking, contact: Jennifer Salhus, Attorney Advisor, Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310 (voice) or (202) 418-1169 (TTY) or Pam Slipakoff, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-1500 (voice) or (202) 418-0484 (TTY).

#### **VI. ORDERING CLAUSES**

61. Accordingly, IT IS ORDERED THAT, pursuant to sections 4(i) and 10 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i) and 160, the Petitions for Declaratory Ruling filed by CTIA on January 23, 2003, and May 13, 2003, are GRANTED to the extent stated herein.

62. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****List of Parties****A. January 23<sup>rd</sup> Petition****Comments**

ALLTEL  
AT&T  
AT&T Wireless  
BellSouth  
California Public Utilities Commission (CA PUC)  
CenturyTel, Inc.  
Fred Williamson & Associates  
Illinois Citizens Utility Board  
Independent Alliance  
Michigan Exchange Carriers Association  
Midwest Wireless  
National Exchange Carrier Association and National Telephone Cooperative Association (NECA & NTCA)  
Nebraska Rural Independent Companies  
New York State Department of Public Service (NY DPS)  
Nextel  
Ohio Public Utilities Commission (Ohio PUC)  
Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)  
Rural Telecommunications Group (RTG)  
SBC  
TCA, Inc  
Texas 911 Agencies  
T-Mobile  
United States Telecom Association (USTA)  
United States Cellular (US Cellular)  
WorldCom

**Reply Comments**

AT&T  
AT&T Wireless  
BellSouth  
CA PUC  
Cingular Wireless  
CTIA  
Fred Williamson & Associates  
McLeod USA Telecommunications Services  
Mid-Missouri Cellular  
Bernie Moskal  
South Dakota Telecommunications Association  
Sprint  
T-Mobile  
USTA

Valor Telecommunications Enterprises  
Virgin Mobile

**B. May 13<sup>th</sup> Petition****Comments**

ALLTEL  
AT&T  
AT&T Wireless  
BellSouth  
CA PUC  
Cincinnati Bell Wireless  
Cingular Wireless  
City of New York  
First Cellular of Southern Illinois  
Illinois Citizens Utility Board  
Independent Alliance  
Missouri Independent Telephone Group  
Nebraska Public Service Commission  
NENA  
Nextel  
Ohio PUC  
OPASTCO  
Qwest  
Rural Cellular Association  
Rural Iowa Independent Telephone Association  
RTG  
SBC  
Sprint  
T-Mobile  
Triton PCS  
USTA  
Verizon  
Verizon Wireless  
Virgin Mobile  
Western Wireless  
Wireless Consumers Alliance

**Reply Comments**

ALLTEL  
ALTS  
AT&T  
AT&T Wireless  
Cellular Mobile Systems of St. Cloud, LLC  
Cingular Wireless  
CTIA  
ENMR-Plateau  
Illinois Citizens Utility Board

Missouri Independent Telephone Group  
NTCA  
NTELOS Inc.  
T-Mobile  
South Dakota Telecommunications Association  
Sprint  
US Cellular  
USTA  
Verizon  
Verizon Wireless  
XIT Cellular

**APPENDIX B****Initial Regulatory Flexibility Analysis  
Further Notice of Proposed Rulemaking  
CC Docket No. 95-116**

1. As required by the Regulatory Flexibility Act, as amended (RFA),<sup>132</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (Further Notice), CC Docket No. 95-116. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the Further Notice and IRFA (or summaries thereof) will be published in the *Federal Register*.<sup>133</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. The Further Notice seeks comment on how to facilitate wireless-to-wireline porting where the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer do not match. The Further Notice also seeks comment on whether the Commission should reduce the current four-business day porting interval for intermodal porting.

**B. Legal Basis for Proposed Rules**

3. The proposed action is authorized under Section 52.23 of the Commission's rules, 47 C.F.R. § 52.23, and in Sections 1, 3, 4(i), 201, 202, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154(i), 201-202, and 251.

**C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply**

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>134</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>135</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act.<sup>136</sup> Under the Small business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established

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<sup>132</sup> *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>133</sup> *See* 5 U.S.C. § 603(a).

<sup>134</sup> *See* 5 U.S.C. § 603(b)(3).

<sup>135</sup> 5 U.S.C. § 601(6).

<sup>136</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions(s) in the Federal Register."

by the Small Business Administration (SBA).<sup>137</sup> A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>138</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>139</sup>

5. **Incumbent Local Exchange Carriers.** We have included small incumbent local exchange carriers LECs in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."<sup>140</sup> The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.<sup>141</sup> We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts. According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services.<sup>142</sup> Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees.<sup>143</sup>

6. **Competitive Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>144</sup> According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services.<sup>145</sup> Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.<sup>146</sup>

7. **Wireless Service Providers.** The SBA has developed a size standard for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under

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<sup>137</sup> 15 U.S.C. § 632.

<sup>138</sup> *Id.* § 601(4).

<sup>139</sup> Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>140</sup> 5 U.S.C. § 601(3).

<sup>141</sup> See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 5 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

<sup>142</sup> FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, at Table 5.3, p 5-5 (Aug. 2003) (*Telephone Trends Report*).

<sup>143</sup> *Id.*

<sup>144</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>145</sup> Telephone Trends Report, Table 5.3.

<sup>146</sup> *Id.*

that standard, such a business is small if it has 1,500 or fewer employees.<sup>147</sup> According to the FCC's *Telephone Trends Report* data, 719 companies reported that they were engaged in the provision of wireless telephony.<sup>148</sup> Of these 719 companies, an estimated 294 have 1,500 or fewer employees and 425 have more than 1,500 employees.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.**

8. To address concerns regarding wireline carriers' ability to compete for wireless customers through porting, future rules may change wireline porting guidelines. In addition, future rules may require wireline carriers to reduce the length of the current wireline porting interval for ports to wireless carriers. These potential changes may impose new obligations and costs on carriers.<sup>149</sup> Commenters should discuss whether such changes would pose an unreasonable burden on any group of carriers, including small entity carriers.

**E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

9. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>150</sup>

10. The Further Notice reflects the Commission's concern about the implications of its regulatory requirements on small entities. Particularly, the Further Notice seeks comment on the concern that wireline carriers, including small wireline carriers, have expressed that permitting wireless carriers to port numbers wherever their rate center overlaps the rate center in which the number is assigned would give wireless carriers an unfair competitive advantage over wireline carriers. Wireline carriers contend that while permitting porting outside of wireline rate center boundaries may facilitate widespread wireline-to-wireless porting, wireless-to-wireline porting can only occur in cases where the wireless customer is physically located in the wireline rate center associated with the phone number. If the customer's physical location is outside the rate center associated with the number, porting the number to a wireline telephone at the customer's location could result in calls to and from that number being rated as toll calls. As a result, LECs assert, they are effectively precluded from offering wireless-to-wireline porting to those wireless subscribers who are not located in the wireline rate center associated with their wireless numbers.

11. The Further Notice seeks comment on how to facilitate wireless-to-wireline porting when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. The Further Notice seeks comment on whether there are technical or regulatory obstacles that prevent wireline carriers from porting-in wireless numbers when the rate center associated with the number and the customer's physical location do not match. The Further Notice

<sup>147</sup> 13 C.F.R. § 121.201, NAICS code 513322.

<sup>148</sup> Telephone Trends Report, Table 5.3.

<sup>149</sup> See e.g., Further Notice, paras. 41, 48-49.

<sup>150</sup> See 5 U.S.C. § 603.

asks commenters that contend that such obstacles exist and result in a competitive disadvantage to submit proposals to mitigate these obstacles.

12. In addition, the Further Notice seeks comment on alternative methods to facilitate wireless-to-wireline porting. To the extent that wireless-to-wireline porting may raise issues regarding the rating of calls to and from the ported number when the rate center of the ported number and the physical location of the customer do not match, the Further Notice seeks comment on the extent to which wireline carriers should absorb the cost of allowing the customers with a number ported from a wireless carrier to maintain the same local calling area that the customer had with the wireless service provider. Alternatively, the Further Notice seeks comment about whether wireline carriers may serve customers with numbers ported from wireless carriers on a Foreign Exchange (FX) or Virtual FX basis. The Further Notice seeks comment on the procedural, technical, and regulatory implications of each of these approaches. These questions provide an excellent opportunity for small entity commenters and others concerned with small entity issues to describe their concerns and propose alternative approaches.

13. The Further Notice also seeks comment about whether the Commission should require wireline carriers to reduce the length of the current wireline porting interval for ports to wireless carriers. The Further Notice analyzes the current wireline porting interval and seeks comment about whether there are technical or practical impediments to requiring wireline carriers to achieve shorter porting intervals for intermodal porting. The Further Notice recognizes that, if a reduced porting interval was adopted, carriers may need additional time to modify and test their systems and procedures. Accordingly, the Further Notice seeks comment on an appropriate transition period in the event a shorter porting interval is adopted.

14. Throughout the Further Notice, the Commission emphasizes in its request for comment, the individual impacts on carriers as well as the critical competition goals at the core of this proceeding. The Commission will consider all of the alternatives contained not only in the Further Notice, but also in the resultant comments, particularly those relating to minimizing the effect on small businesses.

**F. Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules**

15. None.



## SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: *In re Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; CC Docket No. 95-116*

As today it's easier than ever to cut the cord. By firmly endorsing a customer's right to untether themselves from the wireline network – and take their telephone number with them – we act to eliminate impediments to competition between wireless and wireline services. Seamless wireline-to-wireless porting is another landmark on the path to full fledged facilities-based competition.

Our action promises significant consumer benefits for wireline and wireless customers. I have heard the concerns expressed by some wireline providers that wireline network architectures and state-imposed rate centers complicate number portability. This proceeding has undoubtedly focused the Commission's attention on these issues. State regulators have long been champions of local number portability and I appreciate their support. I look forward, however, to working with my colleagues in the states to remove additional barriers to inter-modal local number portability such as the difficulty of some providers to consolidate rate centers to more accurately match wireless carrier service areas.

In the end, the consumer benefits associated with inter-modal LNP convince me that the time for Commission action is now. No doubt there will be some bumps in the road to implementation, but I trust that carriers will use their best efforts to ensure consumers have the highest quality experience possible. I look forward to the Commission's November 24<sup>th</sup> trigger for this obligation and to working with my colleagues to ensure that full wireline to wireless portability is a reality for all consumers everywhere.

**SEPARATE STATEMENT OF  
COMMISSIONER KATHLEEN Q. ABERNATHY**

*Re: Telephone Number Portability – CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116*

This Order removes the final roadblocks to implementing wireline-to-wireless number portability, which is an important step in facilitating intermodal competition. The Commission mandated local number portability (LNP) within and across the wireline and wireless platforms, where technically feasible, with the goal of maximizing consumer choice. As of November 24, 2003, this goal will become a reality: Most consumers who seek to switch wireless providers or to move from a local exchange carrier to a wireless carrier will be able to retain their existing telephone numbers. While I expressed sympathy in the past to arguments that the November 24 deadline was premature, our present focus must be on implementation, and the foregoing Order provides much-needed clarity regarding the parties' obligations.

I recognize that wireline network architecture and state rating requirements will prevent many (if not most) consumers from porting wireless numbers to wireline carriers. Although, in the short term, wireline carriers will have more limited opportunities to benefit from intermodal LNP than wireless carriers will, I was simply not willing to block consumers from taking advantage of the porting opportunities that are technologically feasible today. I am hopeful that existing obstacles to wireless-to-wireline porting will be addressed as expeditiously as possible through technological upgrades and, where necessary, state regulatory changes.

Finally, I am pleased that the Commission is stepping up its consumer outreach efforts on the issues of wireless and intermodal LNP. To this end, I commend the recent proactive efforts of the Wireless Telecommunications Bureau and the Consumer and Government Bureau to educate the public about our LNP rules. I am also pleased with the recent efforts of industry to reach out to consumers so that they understand what number-porting opportunities are available to them. For consumers to benefit from our expanded LNP regime, it is imperative for them to have sufficient information to make the most appropriate choices for themselves.

**SEPARATE STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Telephone Number Portability CTIA Petitions for Declaratory Ruling  
on Wireline-Wireless Porting Issues (CC Docket No. 95-116)*

With today's action, consumers are assured that intermodal telephone number portability will begin, at last, to become a reality later this month. After numerous delays, consumers are on the verge of enjoying the significant new ability to take their current telephone numbers with them when they switch between carriers and technologies. This gives consumers much sought-after flexibility and it provides further competitive stimulus to telephone industry competition. This makes it a win-win situation for consumers and businesses alike.

It was some seven years ago, in the 1996 Act, when Congress recognized that the ability of consumers to retain their phone numbers when switching providers would facilitate the development of competition. Congress instructed us to get this job done and to use "technical feasibility" as our guide in making sure the vision became reality. This we have labored mightily to do. As a result, American consumers will be able to take their digits with them, unimpeded by the hassle, loss of identity and attendant expenses that until now have accompanied switching between service providers and technologies.

The bulk of the problems accompanying the challenge of porting numbers are behind us now. A very limited few remain and these are the subject of the Further Notice of Proposed Rulemaking also approved today. I am confident that these can be handled expeditiously if all interested parties work together. Similarly, any minor implementation problems that develop should be amenable to swift and cooperative corrective actions. It has taken considerable cooperation to bring us to this important point, and I believe consumer support for porting will encourage all parties to reach quick resolution of the few remaining challenges.

Finally, it is difficult to see how we are ever going to have true intermodal competition in the telephone industry apart from initiatives like the one we embark on today. Intermodal competition always receives strong rhetorical support. Today it gets some action, too.

**SEPARATE STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116*

I am pleased to support this item because it provides important consumer benefits by promoting competition in the wireline telephone market. One of the primary reasons I supported wireless local number portability is the additional competition it is likely to encourage in the wireline market. *See* Press Statement of Commissioner Kevin J. Martin on the Commission's Decision on Verizon's Petition for Permanent Forbearance from Wireless Local Number Portability Rules (July 16, 2002). As I stated last year, the ability to transfer a wireline phone number to a wireless phone is an important part of ensuring that competition with wireline phones continues to grow. I am glad that today the full Commission agrees.

I am disappointed, however, that the Commission was not able to provide this guidance until weeks before the LNP requirement is scheduled to take effect. The Commission has an obligation to minimize the burdens our regulations place on carriers, and I wish we had provided the guidance in this Order considerably sooner.

Finally, I recognize that LNP – although very important for consumers – places real burdens on the carriers, particularly the small and rural carriers. Accordingly, I support the decision to waive our full porting requirements until May 24, 2004, for wireline carriers operating in areas outside of the largest 100 MSAs. I am also pleased that we emphasize that those wireline carriers may file waiver requests if they need additional time.

**SEPARATE STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: In re Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; CC Docket No. 95-116*

I am pleased to support this Order because it clarifies that our rules and policies provide for enhanced number portability opportunities for American consumers. Specifically, we enable consumers to port their wireline telephone numbers to local wireless service providers. We also affirm that wireless carriers are required to port telephone numbers to wireline carriers but recognize that wireline carriers are only able to receive those numbers from wireless carriers on a limited basis. Finally, we rightly seek comment on how to deal with these limitations and further facilitate wireless-to-wireline porting.

I believe that our decision is consistent with Section 251(b) of the Communications Act, which requires local exchange carriers (LECs) to provide local number portability to the extent technically feasible. However, I do recognize that there may be certain limitations on the ability of the nations' smallest LECs to technically provide local number portability. In this regard, I am extremely pleased we made the decision to waive until May 24, 2004, the requirement of LECs operating in areas outside of the largest 100 MSAs to port numbers to wireless carriers that do not have a point of interconnection or numbering resource in the rate center where the LEC customer's wireline number is provisioned.

I recognize that there may be other compelling circumstances that make it disproportionately difficult for these same LECs to provide full number portability. Consequently, I am pleased we agreed to the language in the item recognizing that those wireline carriers may need to file additional waivers of our LNP requirement.

I remain concerned, however, that today's clarification of our LNP rules and obligations will exacerbate the so-called "rating and routing" problem for wireless calls that are rated local, but are in fact carried outside of wireline rate centers. While I appreciate the language in the Order that clarifies that ported numbers must remain rated to the original rate center, the rating and routing issue continues to remain unresolved for rural wireline carriers as well as neighboring LECs and the wireless carriers whose calls are being carried. I believe that we must redouble our efforts to resolve this critical intercarrier compensation issue as quickly and comprehensively as possible.

Finally, I take very seriously the concerns of those wireline carriers that have argued wireline-to-wireless number portability should be limited pending the resolution of issues associated with full wireless-to-wireline porting. While I do not believe that these concerns outweigh the very significant benefits to American consumers that our clarification provides today, I do want to highlight my keen interest in working both with industry and the Chairman and my fellow Commissioners on solutions to address this inequity. The Commission should constantly strive to level the proverbial playing field, and the situation presented by our LNP rules and policies should not be any different.

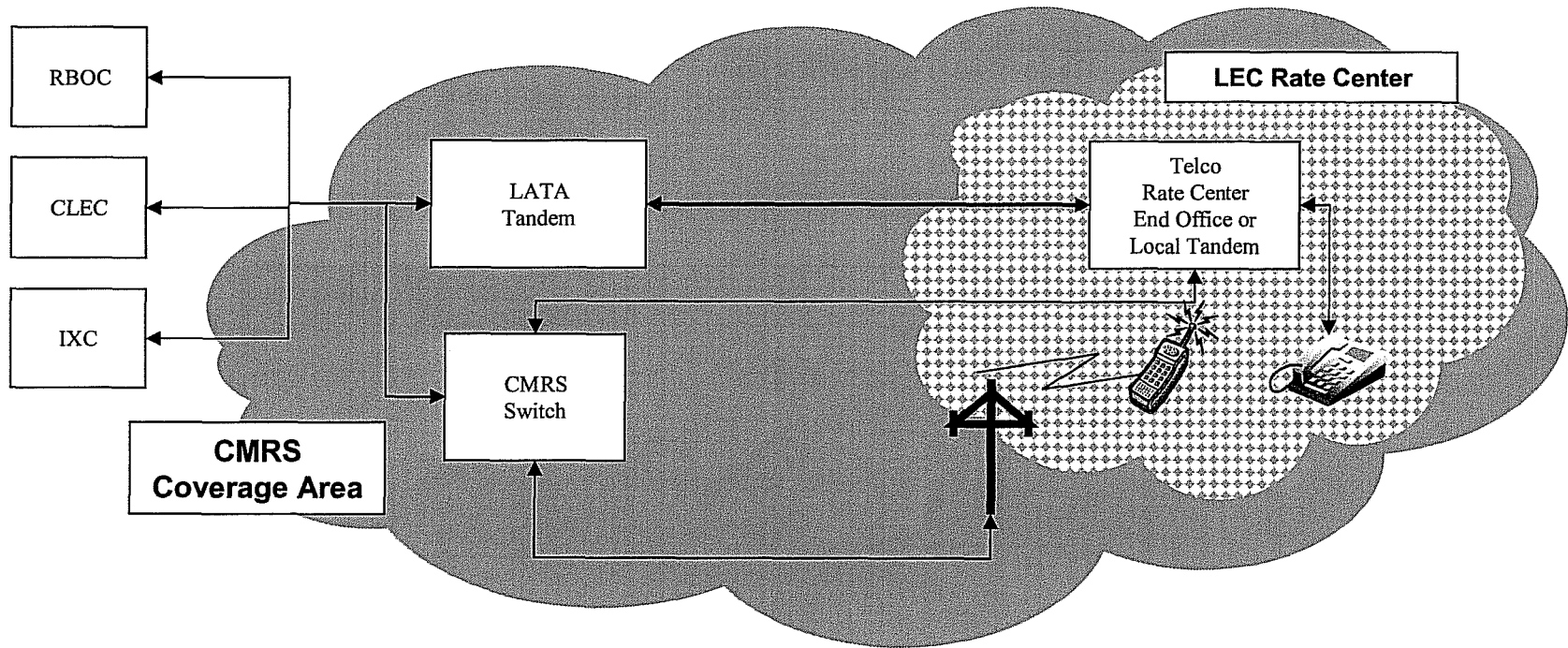
CONFIDENTIAL

# 1

TC04-025

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# Post-Port Direct Routing



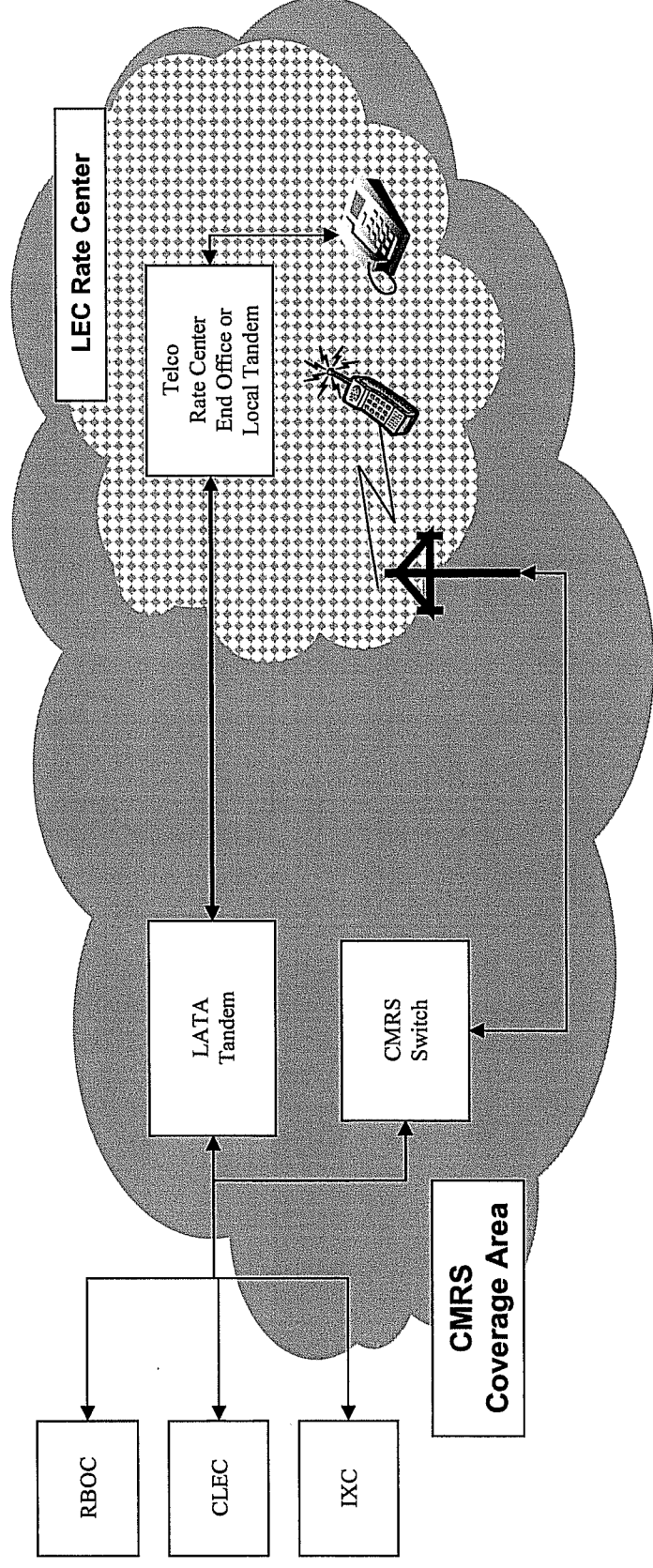
For Demonstrative Purposes Only – Western Wireless Corporation

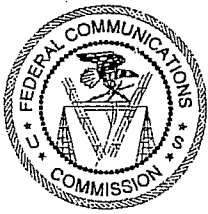
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For Demonstrative Purposes Only – Western Wireless Corporation



# Post-Port Tandem Routing





Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Office of The Bureau Chief

**CGB**

06 May 2004

Via MAIL and FASCIMILE

The Honorable Stan Wise  
Commissioner, Georgia Public Service Commission  
President, National Association of Regulatory Utility Commissioners  
244 Washington Street, S.W.  
Atlanta, GA 30334

Dear Stan:

I want to express my deep appreciation for the efforts of National Association of Regulatory Utility Commissioners (NARUC) and its members in making the initial deployment of wireless number portability such a success. Since November 24, 2003, more than three million consumers have been able to choose a new wireless carrier or switch between a wireless and wireline carrier without having to sacrifice their telephone number. As you know, after May 24, 2004, consumers outside of the top markets will possess the power to make the same choice. In light of the approaching opportunity for *all* American consumers to take their phone numbers with them, I wanted to write you out of concern about certain rural wireline carriers' requests for waivers of their porting obligations that are pending in many states.

When considering requests to waive these important, consumer-friendly obligations, states should remain mindful of the tremendous customer benefits that porting generates. I know that NARUC and the FCC agree that the ability of wireless and wireline consumers to port their numbers remains central to producing competition, choice, lower costs, and increased innovation. These benefits are particularly important in rural areas where competition may be less robust than in more urban markets.

It is with those policies in mind that I hope that you, in your capacity as NARUC's president, will encourage state commissions to hold carriers that seek waivers of their porting obligations to the appropriate standard of review. At this point, I understand that many rural wireline carriers have sought waivers of their obligations, and that, in some cases, waivers have been granted. Of course, states have jurisdiction to waive porting obligations for certain rural telephone companies under Section 251(f) of the Telecommunications Act of 1996, where carriers demonstrate undue economic burden or technological infeasibility. I think we can agree that the State commissions should strictly apply that statutory standard so that the rights of consumers are protected. I encourage the State commissions to ensure that carriers seeking waivers demonstrate that they are on a path to compliance so that customers of these

carriers will not be forever denied the rights their fellow consumers enjoy. If relief were to be granted in the absence of extraordinary circumstances, or for indefinite periods, it would be a setback for rural consumers. It should be noted that some of the same carriers that now seek to have their porting obligations waived have long known that they would, absent a demonstration of undue burden, be required to provide porting to both wireline and wireless carriers.

As we approach the May 24, 2004 deadline for nationwide local number portability deployment, the FCC looks forward to working with NARUC and the State Commissions to make sure that the interests of the American consumer are protected. Because of the publicity regarding the nationwide implementation of wireless and intermodal LNP, consumers in all markets will expect to receive its benefits. Where it is deemed appropriate to grant relief, it is important that consumers be educated so that they can make informed decisions as to their telephone service.

I would be happy to discuss this issue further with you or any of your members in the coming weeks.

Sincerely yours,

A handwritten signature in black ink, appearing to read "K. Dane Snowden", with a long horizontal flourish extending to the right.

K. Dane Snowden  
Chief  
Consumer & Governmental Affairs Bureau

CC: Commissioner Robert Nelson, Chair, Telecommunications Committee, NARUC  
Commissioner Carl Wood, Chair, Consumer Affairs Committee, NARUC  
John Muleta, Chief, Wireless Telecommunications Bureau  
William Maher, Chief, Wireline Competition Bureau



A Publication of the NECA D.C. Office  
Washington Watch

Edited by Deborah Long

**March 18, 2004**

Past Issues

Studies show that as much as 20 % of minutes processed by end office switches is going unbilled. This unbilled "Phantom Traffic" is the focus of a one-day conference April 7, 2004 in Washington, DC. For more information please see the [Conference Brochure](#)

## NECA FILINGS

### NECA TARIFF FCC NO. 5

#### Transmittal No. 1018

3/17/2004 - NECA filed Transmittal No. 1018, revising its Tariff F.C.C. No. 5 to become effective April 1, 2004. This filing makes additions and miscellaneous changes to the listings of companies in the Title Pages, Optional Rate Plan Availability, DSL Access Services Availability and Federal Universal Service Charge sections.

### NECA TARIFF FCC NO. 5

#### Transmittal No. 1019

3/17/2004 - NECA filed Transmittal No. 1019, revising its Tariff F.C.C. No. 5 to become effective April 1, 2004. This filing adds Commonwealth Telephone Company to the list of companies applying Local Number Portability (LNP) End User Charges.

### NECA TARIFF FCC NO. 5

#### Transmittal No. 1020

3/17/2004 - NECA filed Transmittal No. 1020, revising its Tariff F.C.C. No. 5 to become effective April 1, 2004. This filing modifies NECA's Asynchronous Transfer Mode Cell Relay Access (ATM-CRS) and Digital Subscriber Line Access (DSL) Services. Specifically, this filing: 1) reduces the monthly rates for most existing ATM-CRS Port speeds, 2) introduces a third discount commitment level under the DSL Access Services Discount Pricing Arrangement, 3) introduces a non-chargeable optional function associated with ATM-CRS Ports enabling customers to transport Internet Protocol packets over the Telephone Company's network, and 4) removes the local exchange service copper-only requirement for ADSL and SDSL Access Services.

## FCC RELEASES

### LNP

#### **Order, CC Docket No. 95-116, DA 04-726**

3/17/2004 - The FCC has granted the requests of Cellular Telecommunications and Internet Association, Cingular Wireless, LLC, AT&T Wireless Services, Inc. and ALLTEL Communications, Inc. to withdraw their petition for a rulemaking asking the FCC to rescind the rule requiring commercial mobile radio service (CMRS) providers to provide local number portability.

### SECTION 272

#### **Report and Order, CC Docket Nos. 03-228, 96-149, 98-141, 96-149 and 01-337, FCC 04-54**

3/17/2004 - The FCC issued a Report and Order removing prohibition against sharing by BOCs and their section 272 affiliates of operating, installation, and maintenance (OI&M) functions. The Commission concluded that it should retain the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located. The Commission dismissed as moot petitions filed by SBC and BellSouth, pursuant to section 10 of the Act, seeking forbearance from the OI&M sharing prohibition. The Commission also granted SBC's request for modification of the SBC/Ameritech Merger Order conditions related to OI&M services to the extent that these merger conditions are incorporated into the conditions of the SBC Advanced Services Forbearance Order

## INDUSTRY FILINGS

### USF

#### **Ex Parte, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170**

3/16/2004 - Representatives of Microsoft met with Commissioners Adelstein, Abernathy, Copps and Martin and their staff members to explain that policy makers should keep in mind that regulations adopted to suit the PSTN might not translate well into an IP-centric Framework. In terms of Universal Service funding mechanisms, Microsoft believes that either a numbers-based or connections-based approach would be better than today's mechanism, but should be considered only as an interim step.

### UNBUNDLED NETWORK ELEMENTS

#### **Ex Parte, CC Docket Nos. 01-338, 96-98 and 98-147**

3/17/2004 - In a letter to Commissioner Copps, Earthlink submitted a letter to explain its position on reconsideration of the line sharing unbundled network element rules in light of the D.C. Circuit Court's recent decision in USTA v. FCC. Earthlink states that line splitting is not a functional substitute for line sharing, nor is it a long-term competitive alternative to line sharing.

## FEDERAL REGISTER

### BIENNIAL REVIEW

#### **Notice, WC Docket No. 02-313, FCC 03-337, FR Doc 04-5657**

03/18/04 – The Commission has published a notice in the Federal Register setting the comment dates for its inquiry on whether certain rules should be repealed or modified because they are no longer necessary in the public interest. **Comments are due April 19, 2004. Reply Comments are due May 3, 2004.**

## OTHER NEWS

Speaking at a CITA forum on LNP issues, Wireless Bureau Assistant Chief David Firth said that the volume of actual number porting would not be the measure of success, but giving customers the option to port was most important. He indicated that carriers outside of the 100 largest MSA's should be testing and preparing for the May 24, 2004 LNP deadline and that the Commission would not be very sympathetic to last minute waiver requests. He said that the Bureau in its orders has resolved most of the implementation issues. However, if there were still a lack of clarity on certain issues, such as overlapping boundaries, after May 24 the Bureau would consider issuing further guidelines. Responding to questions, he indicated that rating and routing issues between carriers are not porting issues and are therefore not a valid reason for refusing to port. He said that if carriers are experiencing problems with non-compliance by certain carriers, those are enforcement issues and need to be called to the Commission's attention.

The Western Governors Association has sent a letter to Congressional leaders asking them to urge Congress to examine the current Universal Service Fund distribution formula for non-rural carriers, which serve both rural and non-rural areas. The Governors asked Congress to help remedy the imbalance in the distribution of funds. <http://www.westgov.org/wga/testim/usf-ltr3-17-04.pdf>

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SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA  
COLORADO, MONTANA, WYOMING & MINNESOTA

**RECEIVED**

June 11, 2004

JUN 14 2004

**NEXT DAY DELIVERY**  
**And Facsimile 1-605-773-3809**  
Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 E Capitol Avenue  
Pierre SD 57501

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**FAX Received JUN 11 2004**

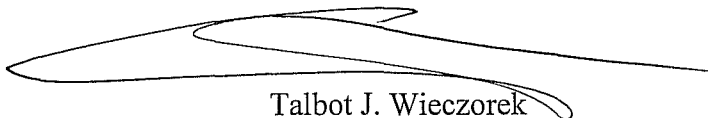
RE: In the Matter of Local Number Portability Obligations Docket No. TC 04-025;  
TC04-038; TC04-044 through TC04-056; TC04-060 through TC04-062;  
TC04-077; TC04-084 and TC04-085

Dear Ms. Bonrud:

Enclosed for filing please find the original and ten copies of WWC's Motion to Compel Discovery or in the Alternative to Strike Petitioners' Pre-Filed Testimony Regarding Costs and Brief in Support of Motion to Compel Discovery or in the Alternative to Strike Petitioners' Pre-Filed Testimony Regarding Costs.

If you have any questions, please call me.

Sincerely,



Talbot J. Wieczorek

TJW:klw

Enclosures

c: Western Wireless, Inc.  
Richard Coit  
Darla Pollman Rogers  
Jeff Larson  
David Gerdes  
Richard Helsper  
Ben Dickens  
James Cremer

FAX Received JUN 11 2004

**RECEIVED**

JUN 14 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025; TC04-038; TC04-044  
through TC04-056; TC04-060 through TC04-  
062; TC04-077; TC04-084; and TC04-085

**INTERVENOR'S MOTION TO COMPEL  
DISCOVERY OR IN THE ALTERNATIVE  
TO STRIKE PETITIONERS' PRE-FILED  
TESTIMONY REGARDING COSTS**

COMES now Intervenor Western Wireless, LLC, by and through its attorney, Talbot J. Wieczorek of Gunderson, Palmer, Goodsell & Nelson, and hereby moves the Court pursuant to SDCL §§15-6-26(a), 15-6-33 and 15-6-34 for an order compelling Petitioners to provide discovery to First Information Requests of Western Wireless. This motion has been raised for the following reason. Intervenor has requested certain cost information directly related to Petitioners' economic burden assertions. Specifically, Interrogatories numbered 4(a)(i); 4(a)(ii); 5(a)(iv); 5(a)(v); 5(a)(vi); 5(a)(vii); 5(a)(xiv); 5(a)(xv); 5(a)(xvi); 13(g); 16(a); 18; 19; 21; and Request for Production No. 3. All Petitioners asserted confidentiality as the basis for not disclosing the responsive information.

Thereafter, Western Wireless, LLC executed a Confidentiality Agreement covering the information requested. *See* Confidentiality Agreement attached as hereto as Exhibit 1. On May 21, 2004, Western Wireless, LLC provided each of the Petitioners with the Confidentiality Agreement and requested that Petitioners provide the confidential documents previously withheld. *See* correspondence from Intervenor's attorney, Talbot J. Wieczorek dated May 21,



2004, attached hereto as Exhibit 2. Petitioners have not supplemented their responses nor provided the requested information in any subsequently served information requests.

A brief citing Intervenor's arguments and supporting authorities is attached and incorporated herein by this reference.

WHEREFORE, Intervenor requests the Commission order Petitioners to comply with the aforementioned First Information Requests of Intervenor Western Wireless or, in the alternative, the Commission strike all cost testimony submitted by Petitioners regarding their costs.

Dated this 11 day of June, 2004.

GUNDERSON, PALMER, GOODSELL  
& NELSON

By: 

Talbot J. Wieczorek  
Attorneys for Plaintiff  
P.O. Box 8045  
Rapid City, SD 57709-8045

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11 day of June, 2004, I sent, by email and Next Day Delivery, a true and correct copy of **INTERVENOR'S MOTION TO COMPEL DISCOVERY OR IN THE ALTERNATIVE TO STRIKE PETITIONER'S PRE-FILE TESTIMONY REGARDING COSTS** to:

**dprogers@riterlaw.com**

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Riter, Rogers, Wattier & Brown  
319 South Coteau Street  
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Pierre, SD 57501

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Sioux Valley Telephone Co  
Golden West, Vivian Telephone Co and Kadoka  
Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
Beresford Municipal Telephone Company  
McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
Stockholm-Strandburg Telephone Company  
Tri-County Telcom  
Cheyenne Sioux Tribe

**jdlarson@santel.net**

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**Attorneys for:**

Brookings Municipal Utilities d/b/a Swiftel Communications

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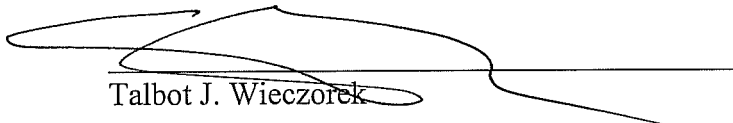
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**Attorney for:**

South Dakota Telecommunications Assoc.



Talbot J. Wiczorek

**RECEIVED**

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

JUN 14 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

In the Matter of the Local Number Portability  
Obligations

Docket No. TC 04-025; TC04-038;  
TC04-044 through TC04-056;  
TC04-060 through TC04-062;  
TC04-084 and TC04-085

**CONFIDENTIALITY AND  
PROTECTIVE AGREEMENT**

In the above-entitled matter, the parties are serving Interrogatories, Data Requests, and other discovery items and providing pre-filed testimony that will require the parties to disclose certain information considered to be confidential in nature by the parties. The information sought to be reviewed is financial, network, and customer data, that may be confidential to the parties producing the information. Talbot J. Wiczorek, counsel for Western Wireless Corporation (WWC), will execute and deliver this Agreement on behalf of Petitioners. Darla Pollman Rogers, attorney for: Kennebec Telephone Company (Kennebec); Sioux Valley Telephone Company (Sioux Valley); Golden West, Vivian Telephone Company and Kadoka Telephone Company (Golden West); Armour Independent Telephone Company, Bridgewater-Canistota Independent Telephone Company and Union Telephone Company (Armour); Beresford Municipal Telephone Company (Beresford); McCook Cooperative Telephone Company (McCook); Valley Telecommunications Cooperative Association, Inc. (Valley); City of Faith Telephone Company (Faith); Midstate Communications, Inc.(Midstate); Western Telephone Company (Western); Interstate Telecommunications Cooperative, Inc. (Interstate); Alliance Communications Inc. and Splitrock Properties (Alliance); RC Communications, Inc., and Roberts County Telephone Cooperative Assn.(RC Comm); Venture Communications

**EXHIBIT**

tabbles

/

Cooperative (Venture); West River Cooperative Telephone Company (West River); Stockholm-Strandburg Telephone Company (Stockholm); Tri-County Telcom, Inc. (Tri-County) and Cheyenne River Sioux Tribe Telephone Authority (CRST), will execute this Agreement on behalf of said companies. Jeffrey D. Larson, counsel for Santel Communications (Santel), will execute this Agreement on behalf of Santel. Richard J. Helsper, counsel for Brookings Municipal Utilities d/b/a Swiftel Communications (Brookings), will execute this Agreement on behalf of Brookings. James Cremer, counsel for James Valley Cooperative Telephone Company (James Valley), will execute this Agreement on behalf of James Valley. David Gerdes, counsel for Midcontinent Communications (Midcontinent), will execute this Agreement on behalf of Midcontinent. Richard Coit, counsel for South Dakota Telecommunications Association (SDTA), will execute this Agreement on behalf of SDTA. The information to be covered hereunder will include all matters served on the parties or filed with the Commission in the above docket.

Accordingly, it is agreed:

1. All documents, data, information, studies and other matters filed with the Commission or served on a party that are claimed by a party to be trade secret, privileged or confidential in nature shall be furnished pursuant to the terms of this Agreement, and shall be treated by all persons accorded access thereto pursuant to this Agreement as constituting trade secret, confidential or privileged commercial and financial information (hereinafter referred to as "Confidential Information"), and shall neither be used nor disclosed except for the purposes of this proceeding, and solely in accordance with this Agreement. Any information provided identifying an equipment vendor with cost information produced by a party will be deemed confidential.

2. All Confidential Information made available pursuant to this Agreement shall be given to counsel for the parties, and shall not be used or disclosed except for the purposes of this proceeding; provided however, that access to any specific Confidential Information may be authorized by said counsel, solely for the purpose of this proceeding, to consultants or employees of any party to this Agreement, if said person has signed an agreement, attached as Exhibit A, to be bound by the terms and conditions of this Agreement. Counsel shall furnish copies to comply and be bound by the terms of this Agreement to counsel for the other party.

3. Confidential Information will be marked as such when delivered to counsel.

4. In the event that the parties hereto are unable to agree that certain documents, data, information, studies or other matters constitute trade secret, confidential or privileged commercial and financial information, the party objecting to the trade secret claim shall forthwith submit the said matters to the Commission for its review pursuant to this Agreement and in accordance with its administrative rules.

5. All written information filed by the parties in this docket that has been designated as Confidential Information, if filed with the Commission by any party, will be presented to the Commission, as Confidential Information protected by A.R.S.D. 20:10:01:41 and withheld from inspection by any person not bound by the terms of this Agreement, unless such Confidential Information is released from the restrictions of this Agreement, either through agreement of the parties or, after notice to the parties and hearing, pursuant to an Order of the Commission and/or final order of a court having jurisdiction,

6. All persons who may be entitled to receive, or who are afforded access to, any Confidential Information by reason of this Agreement shall neither use nor disclose the Confidential Information for purposes of business or competition, or any purpose other than the

purposes of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall take those precautions that are necessary to keep the Confidential Information secure and in accordance with the purposes and intent of this Agreement.

7. The parties hereto affected by the terms of this Agreement further retain the right to question, challenge, and object to the admissibility of any and all data, information, studies and other matters furnished under the terms of this Agreement in response to interrogatories, requests for information or cross examination on the grounds of relevancy or materiality,

8. This Agreement shall in no way constitute any waiver of the rights of any party herein to contest any assertion of finding of trade secrets, confidentiality or privilege, and to appeal any such determination of the Commission or such assertion by a party.

9. Upon completion of the proceeding, including any administrative or judicial review thereof, all Confidential Information, whether the original or any duplication or copy thereof, furnished under the terms of this Agreement, shall be returned to the party furnishing such Confidential Information upon request or destroyed. Confidential Information made part of the record in this proceeding shall remain in the possession of the Commission.

10. The provisions of this Agreement are specifically intended to apply to data or information supplied by or from any party to this proceeding, and to any non-party that supplies documents pursuant to process issued by this Commission.

11. This Agreement shall be effective immediately and apply to any confidential information provided to date.

**Western Wireless Corporation**

By 

Talbot J. Wiczorek, Attorney for Western Wireless  
Corporation

Date: 5/18/07

**Brookings Municipal Utilities d/b/a Swiftel Comm.**

By \_\_\_\_\_  
Richard Helsper, Attorney for Brookings  
Municipal

Date: \_\_\_\_\_

**James Valley Cooperative Telephone Company**

By \_\_\_\_\_  
James M. Cremer, Attorney for James Valley  
Cooperative Telephone Company

Date: \_\_\_\_\_

**South Dakota Telecommunications Association**

By \_\_\_\_\_  
Richard Colt, Attorney for South Dakota  
Telecommunications Association

Date: \_\_\_\_\_

**Midcontinent Communications**

By \_\_\_\_\_  
David Gerdes, Attorney for  
Midcontinent Communications

Date: \_\_\_\_\_



Kennebec Telephone Company  
Sioux Valley Telephone Company  
Golden West, Vivian Telephone Company and Kadoka Telephone Company  
Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
Beresford Municipal Telephone Company  
McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
Stockholm-Strandburg Telephone Company  
Tri-County Telecom  
Cheyenne River Sioux Tribe

By

Darla Pollman Rogers

Date:

6-04-04

Darla Pollman Rogers, Attorney for:

Kennebec Telephone Company  
Sioux Valley Telephone Company  
Golden West, Vivian Telephone Company and Kadoka Telephone Company  
Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
Beresford Municipal Telephone Company  
McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
Stockholm-Strandburg Telephone Company  
Tri-County Telecom  
Cheyenne River Sioux Tribe Telephone Authority

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May 21, 2004

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RE: Local Number Portability Obligations  
GPGN File No. 5925.040157

Dear Counsel:

All of you have withheld documents claiming confidentiality. In any case, when I began receiving all of your discovery and testimony and you withheld documentation claiming confidentiality, I talked to Ms. Rogers and agreed to revise the Confidentiality Agreement a number of us have used previously in the latest ETC filing made by WWC License LLC.

I executed that Monday and faxed it to all of you and I also emailed that to you. When I faxed it to you, I requested you immediately provide me the confidential documents that you have withheld given the fact that I need to file testimony next week and I need the confidential documents to make sure my testimony appropriately responds to all issues. I have not received any of the confidential documents from any of you since then.

In reviewing the discovery, the following confidential documents have been withheld by the following parties:

EXHIBIT

tabbles

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1. **Alliance (TC04-055) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (“NDA”) Same for 4(a)(ii); 5(a)(v); 5(a)(vi). Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs. Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
2. **Armour (TC04-046) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (“NDA”) Same for 4(a)(ii); 5(a)(v); 5(a)(vi). Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs. Answers to Interrogatories No. 18, 19, and 21 state, “Response withheld as proprietary and confidential information.” Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
3. **Beresford (TC04-048) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (“NDA”) Same for 4(a)(ii); 5(a)(v); 5(a)(vi). Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs. Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
4. **Brookings (TC04-047) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (“NDA”). Same for 4(a)(ii); 5(a)(iv); 5(a)(v); 5(a)(vi). Answers to Interrogatory No. 13(g) and (h) state information obtained pursuant to NDAs. Response to Request for Production No. 2 and 3 – documents obtained pursuant to NDAs.
5. **City of Faith (TC04-051) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (“NDA”) Same for 4(a)(ii); 5(a)(v); 5(a)(vi). Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs. Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
6. **Cheyenne (TC04-085) - Confidential documents** – Answer to Interrogatory No. 4(a)(a) states prices obtained pursuant to a Non Disclosure Agreements (NDA) Same for Interrogatory No. 5(a) re Service Order Administration. Response to Request for Production No. 2 and 3 – some data based on information obtained by Petitioner pursuant to NDA and therefore not provided.

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7. **Golden West (TC04-045)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (“NDA”) Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
8. **Interstate (TC04-054)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to Non Disclosure Agreements (NDAs) Same for 4(a)(ii); 5(a)(xiv); 5(a)(xv); 5(a)(xvi).  
Answer to Interrogatory No. 13(g) and (h) claim information obtained pursuant to NDAs.  
Response to Request for Production No. 2 and 3 – documents obtained pursuant to NDAs.
9. **James Valley (TC04-077)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states pricing scenarios based on estimates obtained under NDAs.  
Although not required to answer Interrogatory No. 13(h), states information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
10. **Kennebec (TC04-025)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
11. **McCook (TC04-049)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
12. **Midstate (TC04-052)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.

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13. **RC Comm, Inc. (TC04-056)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) states information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs
14. **Santel (TC04-038)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states pricing scenarios obtained under Non Disclosure Agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi); 5(a)(vii).  
Also, Request for Production No. 2 and 3.
15. **Sioux Valley (TC04-044)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) – information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
16. **Stockholm(TC04-062)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to Non Disclosure Agreements (NDAs).  
Same for 4(a)(ii); 5(a)(xiv); 5(a)(xv); 5(a)(xvi).  
Answer to Interrogatory No. 13(g) and (h) – information obtained pursuant to NDAs.  
Response to Request for Production No. 2 and 3 – documents obtained pursuant to NDAs.
17. **Tri-County (TC04-084)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Interrogatory No. 16(a) – information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
18. **Valley (TC04-050)** - *Confidential documents* – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) – information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.

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19. **Venture (TC04-060) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to Non Disclosure Agreements (NDAs).  
Same for 4(a)(ii); 5(a)(xiv); 5(a)(xv); 5(a)(xvi).  
Answer to Interrogatory No. 13(g) and (h) – information obtained pursuant to NDAs.  
Response to Request for Production No. 2 and 3 – documents obtained pursuant to NDAs.
20. **Western (TC04-053) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(v); 5(a)(vi).  
Answer to Interrogatory No. 16(a) – information obtained pursuant to NDAs.  
Response to Request for Production No. 3 – documents obtained pursuant to NDAs.
21. **West River (TC04-061) - Confidential documents** – Answer to Interrogatory No. 4(a)(i) states prices obtained pursuant to nondisclosure agreements (NDA).  
Same for 4(a)(ii); 5(a)(xiv); 5(a)(xv); 5(a)(xvi).  
Answer to Interrogatory No. 13(g) and (h) – information obtained pursuant to NDAs.  
Response to Request for Production No. 2 and 3 – documents obtained pursuant to NDAs.

If your objection was that the information was confidential or proprietary, please immediately provide these documents by email if you have them in electronic format, by fax if you do not have them in an electronic format and by Next Day Delivery.

Every Petitioner has objected to providing cost information, claiming they signed a nondisclosure agreement with vendors. With the execution of the Confidentiality Agreement, the cost information should also be provided even though a nondisclosure has been signed. I have no objection if you redact the names of the vendors from the names of the cost information when you provide it. At least one company has expressed a concern that if the information is provided in electronic format, there may be formulas that are subject to a nondisclosure agreement. In those cases, simply provide me the paper copy.

As to the testimony, I have noted that I did not receive all confidential documents. By way of example, in the testimony of Tom Bullock, I did not receive Exhibit 1. I am still reviewing the testimony. However, I would ask that if you withheld any documents as part of the testimony claiming confidentiality, that you provide them to me based on my executed Confidentiality and Protective Agreement.

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If anyone contends that they still cannot provide this cost information, let me know so we can bring the matter before the Commission as, quite frankly, I do not see how Petitioners can meet their burden without providing the raw cost information.

Sincerely,



Talbot J. Wiczorek

TJW:klw

c:

Clients

Rolayne Wiest VIA FAX 1-605-773-3809

David Gerdes VIA FAX 1-605-224-6289

Richard Coit VIA FAX 1-605-224-1637

JUN 14 2004

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025; TC04-038; TC04-044  
through TC04-056; TC04-060 through TC04-  
062; TC04-077; TC04-084; and TC04-085

**BRIEF IN SUPPORT OF INTERVENOR'S  
MOTION TO COMPEL DISCOVERY OR IN  
THE ALTERNATIVE TO STRIKE  
PETITIONER'S PRE-FILED TESTIMONY  
REGARDING COSTS**

Intervenor, WWC Wireless, LLC, by and through its attorney, Talbot J. Wieczorek, of Gunderson, Palmer, Goodsell & Nelson, LLP, hereby submits this brief in support of its Motion to Compel Discovery or In The Alternative To Strike Petitioner's Pre-file Testimony Regarding Costs.

**FACTS**

On April 29, 2004, Intervenor Western Wireless, LLC, served upon all Petitioners Information Requests. All Petitioners responded to several of the aforementioned requests by asserting that the information requested would not be produced as it was subject to nondisclosure agreements. After receiving Petitioners responses which asserted confidentiality as the basis for not disclosing pertinent information, Western Wireless, LLC executed a Confidentiality Agreement covering the same information. *See* Confidentiality Agreement attached as Exhibit 1.

Upon execution of the agreement, Western Wireless, LLC requested that Petitioners provide the confidential documents that were previously withheld. *See* May 21, 2004 correspondence attached herein as Exhibit 2. Western Wireless, LLC requested immediate



production as this information is necessary to ensure that the proffered testimony addresses all issues. Id. Petitioners have never responded to this May 21 letter. Nor has the information been provided in conjunction with any subsequently served information requests.

To illustrate, the subject requests and respective responses follow.

#### **INTERROGATORIES AND REQUESTS FOR PRODUCTION BASED ON PREVIOUSLY SERVED DISCOVERY REQUESTS**

All Petitioners were asked to provide the following and responded as follows:

4. Provide the following information relative to the development of the recurring cost estimate in your petition:
  - a. Explain in detail the methodology and inputs used to develop the recurring cost estimate made in your petition.

RESPONSE: Petitioner estimated the monthly recurring costs as follows:

- i. Recurring Service Order Administration (“SOA”): Cost estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. **The estimated prices were obtained pursuant to nondisclosure agreements (“NDA”) and therefore Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from vendors to provide information subject to the confidentiality rules of the Commission. As Petitioner has not entered into any contracts for SOA services, firm pricing cannot be provided.
  - ii. Recurring LNP Query Costs Per Month: Estimates were based on the assumption that Petitioner would be assessed the monthly minimum for this service based upon the database provider’s contract for query service. **The estimated process were obtained pursuant to NDAs, and therefore Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from vendor(s) to provide the requested information subject to the confidentiality rules of the Commission. As Petitioner has not entered into any contracts for SOA services, firm pricing cannot be provided.
5. Provide the following information relative to the development of the non-recurring cost estimate made in your petition:  
Explain in detail the methodology and inputs used to develop the non-recurring cost estimate made in your petition.

RESPONSE: Petitioner estimated the non-recurring costs as follows:

- (iv) Non-Recurring Service Order Administration Cost Estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. The cost estimate represents the anticipated start-up costs to utilize automated services to update the LNP databases. **The sample pricing scenarios were obtained, by Petitioner's consultant, under NDAs and, therefore, Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission. As the Petitioner has not entered into any contracts for SOA service, firm pricing cannot be provided.
- (v) Non-recurring LNP Query Set Up: Non-recurring LNP Query set-up cost estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. The cost estimate includes estimated startup costs levied by the SOA provider to utilize its services and dip its data base. **The estimated prices were obtained pursuant to nondisclosure agreements and therefore Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from vendors to provide the information subject to the confidentiality rules of the Commission. As Petitioner has not entered into any contracts for SOA services, firm pricing cannot be provided.
- (vi) SOA Non-recurring Set Up Charge: Costs for set-up charge were included. Non-recurring SOA set up cost estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. The cost estimate includes estimated startup costs levied by the SOA provider to utilize its services and dip its data base. **The estimated prices were obtained pursuant to nondisclosure agreements and therefore Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from vendors to provide the information subject to the confidentiality rules of the Commission. As Petitioner has not entered into any contracts for SOA services, firm pricing cannot be provided.
- (vii) Non-Recurring Connection Costs with LNP Database Estimates were based on a compilation of SOA services price lists from several firms providing automated SOA services. **The cost estimate represents the anticipated start-up costs levied by the SOA provider to access their database. Generally, these non-recurring costs are driven by the number of SS7 Point Codes or OCNs. The sample pricing scenarios were obtained under NDA from Syniverse and Verisign. As the Petitioner**

**has not entered into any contracts with these or any SOA entities, firm pricing cannot be provided.**

- (xiv) Non-Recurring Service Order Administration Cost Estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. The cost estimate represents the anticipated start-up costs to utilize automated services to update the LNP databases. **The sample pricing scenarios were obtained under NDAs and, therefore, Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission. As the Petitioner has not entered into any contracts for SOA service, firm pricing cannot be provided.
- (xv) Non-Recurring LNP Query Cost Estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. The cost estimate represents the anticipated start-up costs to utilize SOA services to dip the database. **The estimated prices were obtained pursuant to NDAs and, therefore, Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission. As the Petitioner has not entered into any contracts for SOA services, firm pricing cannot be provided.
- (xvi) Non-recurring Connection Costs with LNP Database Estimates were based on a compilation of SOA services price lists from firms providing automated SOA services. The cost estimate represents the anticipated start-up costs to access the database. Generally, these non-recurring costs are driven by the number of SS7 Point Codes or OCNs. **The estimated prices were obtained under NDAs and therefore Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission. As the Petitioner has not entered into any contracts for SOA service, firm pricing cannot be provided.

13. (g) For the monthly recurring “Service Order Administration” cost, explain the specific nature of the cost including vendor name, fixed and variable cost components, and forecasted transaction volumes.

RESPONSE: The Petitioner has not chosen a Service Order Administrator (SOA) vendor. The Petitioner is considering vendors with automated SOA processes. Typically, SOA charges include startup charges and monthly recurring usage charges with a minimum monthly usage fee. **SOA information was obtained by Petitioner’s consultant, pursuant to**

**NDAs and, therefore, Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission.

- (h) For the monthly recurring “LNP Queries” cost, explain the specific nature of the cost including vendor name, fixed and variable cost, and forecasted transaction volumes.

RESPONSE: The Petitioner has not chosen a Service Order Administrator (SOA) vendor. The Petitioner is considering vendors with automated SOA processes. Typically, SOA charges include a monthly recurring LNP query charge with a minimum monthly charge. The actual monthly recurring fees are driven by LNP query volumes. The Petitioner is assuming all originating local calls will be dipped. The Petitioner is assuming that each access line will originate approximately seven (7) to eight (8) calls per day. At this volume, the Petitioner estimates that the LNP query charges will exceed the minimum monthly amount. **SOA information was obtained, by Petitioner’s consultant, pursuant to NDAs and, therefore, Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission.

16. Regarding Exhibit 1 “Total Estimated LNP Non-recurring and Recurring Costs”:

- (a) For the “SOA Monthly Charge”, identify the specific nature of the cost including vendor name, fixed and variable cost components, and forecasted transaction volume. Also state whether this is the most cost efficient method you are aware of to implement SOA functionality for the volume of ports in your forecast.

RESPONSE:

- (a) Petitioner has not chosen a Service Order Administrator (SOA) vendor. Petitioner is considering vendors with automated SOA processes. Typically, SOA charges include startup charges and monthly recurring usage charges with a minimum monthly usage fee. **SOA information was obtained pursuant to NDAs and therefore Petitioner cannot provide the requested information at this time.** Petitioner will seek permission from the vendors to provide the information subject to the confidentiality rules of the Commission. At the time of preparation of Exhibit 1, Petitioner was aware of only these SOA estimates. As Petitioner continues to explore the cost factor, Petitioner has found that there may be less costly methods and is currently exploring them.

18. What is the gross switch investment, accumulated depreciation, and net book value of your existing switches?

RESPONSE:

Response withheld as proprietary and confidential information

19. Identify all capital investments made in your switching equipment in the 2001, 2002, 2003 and to date in 2004.

RESPONSE:

Response withheld as proprietary and confidential information.

21. Explain how funds received for Local Switching Support from the High Cost Fund are used by your company and why they shouldn't be used to offset the cost of local number portability so that your services are "reasonably comparable to those services provided in urban areas. . ."

RESPONSE:

Petitioner objects to this question as calling for information that is not relevant to the current proceedings. Response withheld as proprietary and confidential information.

REQUEST FOR PRODUCTION #3:

Provide any vendor quotes you have obtained for any of the following claimed LNP costs:

- Switch Upgrade Costs
- LNP Query Costs
- LNP Software Features
- Technical Implementation and Testing
- Marketing/Informational Flyer
- Additional Vendor Fees
- Billings/Customer Care Software Upgrades
- SOA Non-Recurring Setup Charge
- SOA Monthly Charge
- Translations
- Service Order Administration
- Additional Software Features
- Feature Activation

RESPONSE: **The documents in response to this request were obtained pursuant to NDAs and therefore Petitioner cannot provide them.** Petitioner will seek permission from the vendors to provide the responsive documents subject to the confidentiality rules of the Commission.

## ARGUMENT

SDCL § 15-6-26(a) permits a party to seek discovery by written interrogatories under SDCL § 15-6-33, and request for production of documents under SDCL § 15-6-34. SDCL § 15-6-26(b) sets the general scope of discovery. “Unless otherwise limited by order of the court,” a party may seek disclosure of, “any matter, not privileged, which is relevant to the subject matter in the pending action,” whether admissible or not. Id.

Moreover, the scope of discovery is to be broadly construed. Kaarup v. St. Paul Fire and Marine Ins. Co., 436 N.W.2d 17, 19 (S.D. 1989). “A broad construction of the discovery rules is necessary to satisfy the three distinct purposes of discovery: (1) narrow the issues; (2) obtain evidence for use at trial; (3) secure information that may lead to admissible evidence at trial.” Id., *citing* 8 C. Wright and A. Miller, Federal Practice and Procedure, § 2001 (1970).

. . . the deposition-discovery rules are to be accorded a broad and liberal treatment. No longer can the time-honored cry of “fishing expedition” serve to preclude a party from inquiring into the facts underlying his opponent’s case. Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. To that end, either party may compel the other to disgorge whatever facts he has in his possession. The deposition-discovery procedure simply advances the stage at which the disclosure can be compelled from the time of trial to the period preceding it, thus reducing the possibility of surprise. But discovery, like all matters of procedure, has ultimate and necessary boundaries.

Kaarup, 436 N.W.2d at 20. Under this broad discovery purview, unless privileged, all relevant matters are discoverable. Id. Intervenor Western Wireless, LLC submits that the information requested both through interrogatories and requests for production of documents is properly subject to discovery.

The information requested is directly relevant to the issues pending before the Commission. Petitioners have requested a suspension or modification of the requirements found under 47 U.S.C. §§ 251(f) and 251(c). South Dakota Codified Law § 49-31-80 grants the

Commission the authority to authorize a suspension or modification of any of the requirements of 47 U.S.C. §§ 251(f) and 251(c). It specifically states,

Suspension or modification to carrier with small service area. Consistent with 47 U.S.C. § 251(f)(2) as of January 1, 1998, the commission may grant a suspension or modification of any of the interconnection or other requirements set forth in 47 U.S.C. §§ 251(b) and 251(c), as of January 1, 1998, to any local exchange carrier which serves fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. Any such carrier shall petition the commission for the suspension or modification. The commission shall grant the petition to the extent that, and for such duration as, the commission determines that the requested suspension or modification is consistent with the public interest, convenience, and necessity and is necessary:

- (1) To avoid a significant adverse economic impact on users of telecommunications services generally;
- (2) To avoid imposing a requirement that is unduly economically burdensome; or
- (3) To avoid imposing a requirement that is technically infeasible.

The commission may suspend enforcement of the requirement or requirements identified in the petition pending final action on the requested suspension or modification.

The Eighth Circuit Court of Appeals has succinctly stated that the plain meaning of the aforementioned statutes, "...requires the party making the request to prove that the request meets the three prerequisites...." Iowa Utilities Board v. Federal Communications Commission (Iowa II), 219 F.3d 744, 762 (8th Cir. 2000), *reversed in part on other grounds by*, Verizon Communications, Inc. v. Fed'l Communications Comm'n, 535 U.S. 467 (2002).

As a result, Petitioners bear the burden of demonstrating a significant adverse economic impact or undue economic burden. Id. Petitioners have refused to produce the economic information upon which they relied in support of these claims. *See* above Responses to Information Requests. Petitioners' basis for their production denial has since been cured by Intervenor Western Wireless, LLC's execution of the Confidentiality Agreement. *See* Exhibit 1.

Intervenors are entitled to this information under the broad gambit of the discovery rules governing this matter. Kaarup, 436 N.W.2d at 20. Therefore, Intervenors respectfully request the Commission compel Petitioners production of the information requested.

In the alternative, Intervenors request that should Petitioners fail to product information which supports their claims of significant adverse economic impact or undue economic burden, that the Commission strike Petitioners pre-file testimony regarding costs.

Petitioners bear the burden of demonstrating and establishing the economic basis which would justify a suspension or modification. Iowa 2, 219 F.3d at 762. If Petitioners are allowed to assert economic burdens without demonstrating the information that they have relied upon to establish such burdens, Intervenor is left in a position where it is unable to thoroughly evaluate the basis of the Petitioners' assertions. Allowing Petitioners to assert an economic burden without demonstrating any proof of that burden would allow for their unjust ability of presenting financial information with no credible basis. Without affording Intervenor an opportunity to review and cross-examine regarding the basis for the economic burden assertions, renders Intervenor completely unable to refute the ultimate issue in this matter. Therefore, Intervenor requests that should Petitioners fail to produce the information which supports their claims of economic burdens, of any pre-filed testimony be stricken as speculative without support.

In conclusion, Intervenor respectfully requests this Court compel Petitioners' production of the information which would satisfy the aforementioned interrogatories and requests for production. Production of this information is appropriate because it is directly relevant to the ultimate issue in this matter. In the alternative, should Petitioners fail to produce the requested information, then Intervenor respectfully requests that this Court strike any pre-filed testimony regarding economic burdens as unfounded.



Dated this 21 day of June, 2004.

GUNDERSON, PALMER, GOODSSELL  
& NELSON, LLP

A large, stylized handwritten signature in black ink, appearing to read 'Talbot J. Wiczorek', is written over a horizontal line.

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## CERTIFICATE OF SERVICE

The undersigned certifies that on the \_\_\_\_ day of June, 2004, I served a true and correct copy of the foregoing **BRIEF IN SUPPORT OF INTERVENOR'S MOTION TO COMPEL DISCOVERY OR IN THE ALTERNATIVE TO STRIKE PETITIONER'S PRE-FILED TESTIMONY REGARDING COSTS** by email and NEXT DAY DELIVERY to:

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Golden West, Vivian Telephone Co and Kadoka  
Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
Beresford Municipal Telephone Company  
McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
Stockholm-Strandburg Telephone Company  
Tri-County Telcom  
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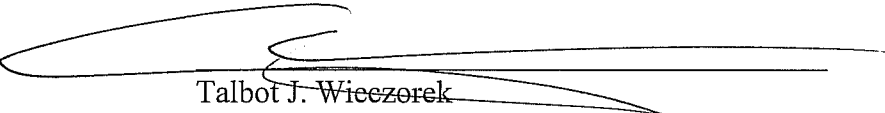
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*Rural roots, global connections*

**RECEIVED**

JUN 14 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

June 14, 2004

Ms. Pamela Bonrud, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Ave.  
State Capitol Building  
Pierre, SD 57501

RE: Petitions for Suspension and/or Modification of LNP, Dockets TC04-025, 038, 044, 045, 046, 047, 048, 049, 050, 051, 052, 053, 054, 055, 056, 060, 061, 062, 077, 084, and TC04-085.

Dear Ms. Bonrud:

Enclosed you will find for filing in the above referenced Dockets, the prefiled Rebuttal Testimony of witness Steven E. Watkins. This testimony is filed on behalf of SDTA and also is filed on behalf of each of the below listed rural local exchange carriers, as part of their prefiled testimony.

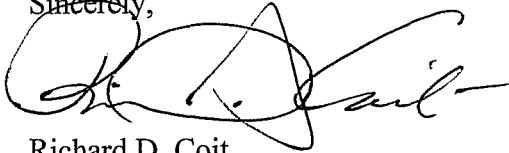
TC04-025 – Kennebec Telephone Company  
TC04-038 – Santel Communications Cooperative  
TC04-044 – Sioux Valley Telephone Company  
TC04-045 – Golden West Telecommunications Cooperative  
Vivian Telephone Company  
Kadoka Telephone Company  
TC04-046 - Armour Independent Telephone Company  
Bridgewater-Canistota Independent Telephone Company  
Union Telephone Company  
TC04-047 - Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 - Beresford Municipal Telephone Company  
TC04-049 - McCook Cooperative Telephone Company  
TC04-050 - Valley Telecommunications Cooperative Association, Inc.  
TC04-051 - City of Faith Telephone Company  
TC04-052 - Midstate Communications Inc.  
TC04-053 - Western Telephone Company  
TC04-054 - Interstate Telecommunications Cooperative  
TC04-055 - Alliance Communications Cooperative, Inc.  
Splitrock Properties, Inc.

TC04-056 - RC Communications, Inc.  
                  Roberts County Telephone Cooperative Association  
TC04-060 - Venture Communications Cooperative  
TC04-061 - West River Cooperative Telephone Company  
TC04-062 - Stockholm-Strandburg Telephone Company  
TC04-077 - James Valley Cooperative Telephone Company  
TC04-084 - Tri-County Telcom, Inc.  
TC04-085 - Cheyenne River Sioux Tribe Telephone Authority

You will also find enclosed a certificate of service verifying service of this document on counsel for the other intervening parties.

Thank you for your assistance in filing and distributing these documents.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", with a stylized flourish at the end.

Richard D. Coit  
Executive Director and General Counsel  
SDTA

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**RECEIVED**

JUN 14 2004

**IN THE MATTER OF THE PETITIONS FOR )  
SUSPENSION OR MODIFICATION OF )  
§ 251(b)(2) OF THE COMMUNICATIONS )  
ACT OF 1934 AS AMENDED )**

**DOCKETS: SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**TC04-025 - Kennebec Telephone Company  
TC04-038 - Santel Communications Cooperative  
TC04-044 - Sioux Valley Telephone Company  
TC04-045 - Golden West Telecommunications Cooperative  
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TC04-084 - Tri-County Telcom, Inc.  
TC04-085 - Cheyenne River Sioux Tribe Telephone Authority**

**REBUTTAL TESTIMONY OF**

**STEVEN E. WATKINS**

Submitted on behalf of above Rural Local Exchange Carriers and  
the South Dakota Telecommunications Association

June 14, 2004

1 Q1: **Please state your name, business address and telephone number.**

2 A: My name is Steven E. Watkins. My business address is 2120 L Street, N.W., Suite 520,  
3 Washington, D.C. 20037. My business telephone number is (202) 296-9054.

4 Q2: **On whose behalf are you testifying?**

5 A: I am testifying on behalf of the rural local exchange carriers that are the petitioning par-  
6 ties in dockets captioned above (to be referred to as the "Petitioners") and the South  
7 Dakota Telecommunications Association.

8 Q3: **Have you previously submitted testimony in these proceedings?**

9 A: Yes. I submitted direct testimony on May 14, 2004 in these dockets (to be referred to as  
10 "Watkins Direct").

11 Q4: **What is the purpose of your Rebuttal Testimony?**

12 A: The primary purpose of this Rebuttal Testimony is to respond to the Direct Testimony  
13 filed by Ron Williams on behalf of Western Wireless.

14 Q5: **Do you have any initial comments relative to these dockets?**

15 A: Yes. Only one wireless carrier filed testimony in these proceedings, even though there  
16 must be other wireless carriers operating in South Dakota.

17 Q6: **To what do you attribute this lack of interest in LNP in South Dakota by wireless**  
18 **carriers other than Western Wireless?**

19 A: The fact that other wireless carriers have decided not to participate in this proceeding and  
20 not to submit testimony is consistent with the general observations and conclusions in my  
21 Direct Testimony that there are few, if any, wireline end users in rural South Dakota that  
22 actually want to abandon, or would abandon, their wireline service and port their wireline  
23 number for use solely in connection with wireless service. There is no real demand for

1 intermodal porting in rural South Dakota and the lack of participation is more evidence of  
2 that fact. As such, the other wireless carriers seem to accept and to understand that de-  
3 mand for intermodal LNP would be non-existent or small in rural South Dakota areas,  
4 and therefore have apparently concluded that spending their time and resources attempt-  
5 ing to force, merely on principle, an unnecessary LNP requirement on rural LECs would  
6 lack a business purpose.

7 Similarly, I would like to add that Western Wireless has also previously con-  
8 cluded in comments filed with the Federal Communications Commission ("FCC") that  
9 "LNP is unnecessary to further competition." Reply Comments of Western Wireless  
10 filed October 21, 2001, in WT Docket No. 01-184 at pp. 2-5 (a proceeding in which Ver-  
11 izon Wireless was seeking partial forbearance of LNP requirements). Western Wireless  
12 noted that, as a provider of conventional cellular and wireless local loop services, "West-  
13 ern is making significant inroads competing against wireline service providers -- without  
14 offering LNP." *Id.* Western Wireless went on to state that "there is no evidence to sug-  
15 gest that the inability of CMRS customers to port their numbers is an impediment to  
16 changing service providers." *Id.* at p. 5.

17 **Q7: Do you have any initial comments about Mr. Williams' direct testimony?**

18 **A:** Yes. Mr. Williams' testimony is simply incorrect on several points and, therefore, his  
19 discussion would be misleading if accepted without review:

20 ■ Mr. Williams confuses a waiver request before the FCC pursuant to the FCC's local  
21 number portability ("LNP") rules in contrast to a suspension proceeding before a state  
22 commission pursuant to the broad protections that Congress provided in Section 251(f)(2)  
23 of the Act for small telephone companies and their rural customers.



1 ■ In reviewing what Mr. Williams considers to be the standards for review pursuant to a  
2 Section 251(f)(2) proceeding, Mr. Williams incorrectly references discussion by the FCC  
3 that the Courts have rendered inapplicable. The Courts have concluded that the conclu-  
4 sions contained in Mr. Williams' discussion are contrary to the protections Congress set  
5 forth in the Act.

6 ■ Mr. Williams questions whether there are LNP routing issues, but then presents incon-  
7 sistent testimony that illustrates the same unresolved issues that I set forth in my direct  
8 testimony regarding some new routing arrangement that would have to be established af-  
9 ter a number is ported. The FCC's confusing statements cannot be reconciled with the  
10 facts that I will explain more fully in this Rebuttal Testimony.

11 ■ Mr. Williams discussion of routing issues is, in reality, merely an attempt to impose  
12 extraordinary and unfair transport obligations on the rural LECs far beyond those that ac-  
13 tually apply. The comments of Western Wireless have more to do with burdening the  
14 rural LECs with transport than with any interest in LNP. This may also explain why  
15 Western Wireless is the sole wireless carrier participating in this proceeding.

16 **Q8: Are there any relevant issues that are missing from Mr. Williams Direct Testimony?**

17 **A:** Yes. Any discussion of the subject of the adverse economic impact on customers (the  
18 first suspension criterion in Section 251(f)(2) of the Act) in South Dakota is glaringly ab-  
19 sent from his testimony. While Mr. Williams discusses the economic burden on the  
20 Petitioners, he fails to address the adverse economic impact on users of telecommunica-  
21 tions services in rural areas of South Dakota. *See* 47 U.S.C. § 251(f)(2)(A)(I) His  
22 testimony completely disregards the significant adverse economic impact on users in jux-  
23 taposition to the absence of demand or any potential benefit of implementation of LNP in

1 rural areas of South Dakota.

2 Q9: **How have you organized the remainder of your Rebuttal Testimony?**

3 A: For ease of review by the Commission and the parties, the remainder of my Rebuttal Tes-  
4 timony will follow, to the extent that is possible, the order of issues presented in Mr.  
5 Williams' testimony.

6 Q10: **Do you have any comments regarding Mr. Williams' discussion at p. 3 of a "juris-**  
7 **diction issue regarding waivers to LNP Implementation?"**

8 A: Mr. Williams' conclusions are incorrect in his response on p. 3 of his Direct Testimony.  
9 First, Mr. Williams discusses waiver requests before the Federal Communications Com-  
10 mission, not suspension requests before a state commission. (He then cites Section 332  
11 of the Act to suggest some authority, but Section 332 provides authority for the FCC to  
12 establish physical, direct connections with local exchange carriers for wireless carriers,  
13 irrelevant to the issues in this proceeding).

14 With respect to a suspension request, there is no question that this Commission  
15 possesses jurisdiction pursuant to Section 251(f)(2) of the Communications Act of 1934,  
16 as amended ("Act"). Section 251(f)(2) relates to requests to state commissions for sus-  
17 pension or modification of requirements in Section 251(b) and (c) of the Act, including  
18 the LNP requirement. Mr. Williams spends several pages, beginning on p. 6, discussing  
19 the criteria in the Act regarding Section 251(f)(2) proceedings.

20 In contrast, the FCC's narrow waiver request rules are intended only to address  
21 situations where there are circumstances beyond the control of a carrier that require some  
22 delay in implementation of LNP. Those set of waiver considerations are completely  
23 separate and unrelated to the considerations set forth in Section 251(f)(2) of the Act.

1 Pursuant to Section 251(f)(2), the Petitioners seek a suspension or modification,  
2 not an FCC waiver, as is clearly their right under this statutory provision, and such re-  
3 quests are clearly a matter to be filed with and resolved by state commissions, not the  
4 FCC. Moreover, the Petitioners have not sought waiver of any Section 251(b)(2) re-  
5 quirement, so the use of this word by Mr. Williams is both incorrect and misleading.

6 Contrary to Mr. Williams' suggestion that the FCC "asserted jurisdiction," there  
7 is no opportunity for the FCC to assert its jurisdiction in a Section 251(f)(2) matter, and  
8 the FCC has previously and specifically recognized state commissions' authority to grant  
9 suspensions from implementation of LNP. In 1997, the FCC specifically cited, in an  
10 LNP order, Section 251(f)(2) and noted that if state commissions exercise their authority  
11 to suspend, "eligible LECs will have sufficient time to obtain any appropriate Section  
12 251(f)(2) relief as provided by the statute." *In the Matter of Telephone Number Portabil-*  
13 *ity, First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236 (1997)  
14 (*"Number Portability Reconsideration"*) at 7302-03. There has been no reversal of this  
15 state commission authority.

16 Q11: On pages 4-5 and 10-11 of his Direct Testimony, Mr. Williams notes LNP suspen-  
17 sion activity in other states. What comment do you have regarding this activity in  
18 other states?

19 A: Based upon information published by Neustar (dated May 20, 2004), there is LNP sus-  
20 pension activity in at least 35 states. The status of that activity in each state is different  
21 and is based on the facts and circumstances of the carriers in those states and the specific  
22 requests of those carriers. In any event, the majority of those states that have pending  
23 suspension requests have granted some relief to the rural LECs seeking suspension.

1 While an exact count is difficult, on May 20, 2004, there appeared to be 28 states in  
2 which requests are still pending or some form of the requests had been granted. Never-  
3 theless, it appears that 18 of the 35 states have granted either a specific suspension or an  
4 interim suspension while the matter is further studied. Far from Mr. Williams attempted  
5 portrayal, the majority of the states have found merit in suspending LNP obligations for  
6 the smaller LECs. And for those states that may have denied the requests, it is not sur-  
7 prising that the state commissions in such states may have been misled by the FCC's less  
8 than adequate handling of its confusing LNP orders or the consequences of the unre-  
9 solved issues.

10 In any event, the activity in other states is based on the specific circumstances of  
11 those states. I would urge the Commission and the parties to focus on the policy, facts,  
12 public interest, and impact on consumers as it relates to LNP suspension in South Dakota.  
13 This Commission is in the best position to review these facts as they relate to the rural  
14 users in South Dakota, and the Commission is in the best position to determine the public  
15 interest with respect to those users.

16 **Q12: On page 4 of his testimony, Mr. Williams notes FCC action regarding North-**  
17 **Eastern Pennsylvania Telephone Company ("NEP"). What relevance does this ac-**  
18 **tion at the FCC have with respect to a state suspension proceeding?**

19 **A:** None. The facts and circumstances of the NEP matter are unrelated to those related to a  
20 suspension request or the issues related to the South Dakota Petitioners. As I already ex-  
21 plained above, an FCC waiver matter is very much different from one that will review the  
22 criteria in the Act under Section 251(f)(2). The NEP matter was a request for temporary  
23 waiver before the FCC; NEP is implementing LNP; NEP needed more time as a result of

1 the failure by its equipment manufacturer to deliver necessary functionalities associated  
2 with new soft switch installations. While the FCC did not grant the waiver request, it  
3 nevertheless gave NEP additional time to get in order the necessary hardware and soft-  
4 ware with its equipment manufacturer. In any event, it was not a suspension request  
5 pursuant to Section 251(f)(2) of the Act.

6 **Q13: On page 10 of his direct testimony, Mr. Williams notes a statement by the Pennsyl-**  
7 **vania Commission. Do you have any comment?**

8 **A:** Yes. What Mr. Williams fails to point out is that the Pennsylvania Commission, in the  
9 proceedings cited by Mr. Williams, granted suspension of certain Section 251(b) and (c)  
10 interconnection requirements for a large number of small LECs in Pennsylvania contrary  
11 to that which is implied by the testimony of Mr. Williams.

12 **Q14: What is your reaction to Mr. Williams' statement at p. 5 that "all LECs have known**  
13 **since 1996 that they would be required to provide LNP"?**

14 **A:** Even if this observation were true, it is not relevant to these proceedings because Section  
15 251(f)(2) of the Act gives the Petitioners the right to file suspension petitions and it im-  
16 poses no time constraints on when such suspension petitions must be filed. In any event,  
17 I disagree with the implication. Although the Act contains an LNP provision, there was  
18 no LNP requirement until the FCC developed implementation rules (notwithstanding the  
19 fact that these rules are still incomplete). Further, for carriers outside of the top 100  
20 MSAs, such as the Petitioners, there was no LNP requirement until the Petitioners re-  
21 ceived a specific request for LNP. Thus, Petitioners could not know that they might be  
22 required to implement LNP until they were asked to do so.

23 Even once various wireless carriers like Western Wireless requested LNP, it was

1 not at all clear that the requests complied with the FCC's rules. In fact, it took the FCC  
2 eleven months to "clarify" the meaning of its rules after the wireless carriers admitted un-  
3 certainty. It is difficult to understand how Western Wireless can argue that the  
4 Petitioners should have known in 1996 that they had an obligation to port numbers to  
5 wireless carriers when no wireless carrier had made a request for number portability until  
6 2003 and the FCC needed eleven months to "clarify" the obligation that Western Wire-  
7 less contends is so apparent.

8 Moreover, a factual review of the record before the FCC demonstrates that no one  
9 could have anticipated the FCC would reach the novel conclusions reflected in the *Nov.*  
10 *10 Order*. Many very difficult issues associated with intermodal porting have been iden-  
11 tified and studied by both the FCC and the industry working group selected by the FCC  
12 and, even currently, there has been no proposal or recommendation to resolve these in-  
13 termodal porting issues. Consequently, there could not have been any reasonable  
14 expectation that the FCC would disregard the record and its own announced process and  
15 order intermodal LNP as described in the *Nov. 10 Order*.

16 I will address additional aspects of the *Nov. 10 Order* later in this Rebuttal Testi-  
17 mony and explain why the Order represents a significant departure from the FCC's  
18 previously announced approach to the establishment of new requirements and how some  
19 of the FCC's statements make no sense when compared with the facts. I devote several  
20 pages of my Direct Testimony to the background of the sequence of events and/or lack of  
21 action that led to the *Nov. 10 Order* and explain why no one could have anticipated the  
22 FCC's action. Watkins Direct at pp. 15-35.

23 Q15: On pp. 6-7 of his Direct Testimony, Mr. Williams sets forth his view of the standards

1 Congress intended for a Section 251(f)(2) proceeding and sets forth the FCC's de-  
2 scription of the meaning of "undue economic burden." Are his views correct?

3 A: No. Mr. Williams has misstated applicable law. The FCC attempted to invoke an im-  
4 proper interpretation of what is meant by "undue economic burden," and the Courts have  
5 subsequently vacated the applicable FCC Rule relating to this subject.

6 Mr. Williams at p. 7, lines 1-3 and line 12-19, cites the FCC discussion in its *First*  
7 *Report and Order* of the narrow criteria that the FCC sought to apply with respect to the  
8 evaluation of Section 251(f)(1) exemptions and Section 251(f)(2) suspension and modifi-  
9 cation requests and the FCC's attempt to confine the definition of undue economic  
10 burdens. As the Courts have concluded, the FCC attempted improperly to narrow the ex-  
11 emption, suspension, and modification provisions of Section 251(f) of the Act by  
12 adopting Section 51.405 of its Rules. The FCC's conclusions and Section 51.405 of its  
13 rules were subsequently vacated. The statements of the FCC cited by Mr. Williams are in  
14 the section of the *First Report and Order* that has been completely invalidated by the  
15 Courts.

16 On July 18, 2000, on remand from the United States Supreme Court, the United  
17 States Court of Appeals for the Eighth Circuit issued its opinion in *Iowa Utilities Board*  
18 *v. Federal Communications Commission*, 219 F.3d 744(8<sup>th</sup> Cir. 2000) ("*IUB II*"), which,  
19 *inter alia*, vacated Section 51.405(a), (c) and (d) of the FCC's rules.

20 *IUB II* establishes that the proper standard for determining whether compliance  
21 with Section 251(b) or (c) would result in imposing a requirement that is unduly eco-  
22 nomically burdensome includes "the full economic burden on the ILEC of meeting the  
23 request that must be assessed by the state commission" and not just that which is "beyond

1 the economic burden that is typically associated with efficient competitive entry." 219  
2 F.3d at 761 The Court emphasized that "undue economic burden" is just one of three al-  
3 ternative bases on which suspension or modification may be granted under § 251(f)(2) --  
4 the others being adverse economic impact on users and technical infeasibility.

5 **Q16: How does this Eighth Circuit Court of Appeals decision support the Petitioners' po-**  
6 **sitions with respect to their request for suspension of LNP?**

7 **A:** According to the Court, the FCC attempted unlawfully to limit the interpretation of "un-  
8 duly economically burdensome," and, therefore, the FCC had "impermissibly weakened  
9 the broad protection Congress granted to small and rural telephone companies." 219 F.3d  
10 at 761. In no uncertain terms, the Court concluded that the FCC's interpretation (as re-  
11 flected in the references Mr. Williams has provided) frustrated the policy underlying the  
12 statute and stated "[t]here can be no doubt that it is an economic burden on an ILEC to  
13 provide what Congress has directed it to provide to new competitors in § 251(b) or §  
14 251(c)." *Id.*

15 **Q17: Mr. Williams, at pp. 12-15 of his Direct Testimony, questions the infeasible opera-**  
16 **tional and technical implementation obstacles that would be encountered by the**  
17 **Petitioners. Do you have any comment?**

18 **A:** Yes. I will let the factual record speak for itself because it fully demonstrates the obsta-  
19 cles confronting carriers regarding potential routing of calls to ported numbers where  
20 there is no interconnection or other business arrangement in place.

21 **Q18: On page 14, the testimony of Mr. Williams may suggest that you are confused about**  
22 **the differences between Service Provider Portability and Location Portability, and**  
23 **what the FCC has ordered. Are you confused?**



1 A: No. Although additional issues remain before the FCC and before the Courts regarding  
2 the arbitrary aspects of the FCC's orders related to the FCC's own definition of Service  
3 Provider Portability compared to Location Portability, my testimony has emphasized the  
4 unresolved issues and inconsistencies in the FCC's order related solely to Service Pro-  
5 vider Portability. Even Mr. Williams's words (on p. 14), about what Service Provider  
6 Portability means, further illustrates my point. Mr. Williams concedes that the statutory  
7 and FCC rule definition of Service Provider Portability is the substitution of service using  
8 the same number "at the same location where the customer receives landline service."  
9 Without debating the fact that a number ported to a mobile user of wireless service auto-  
10 matically means that the customer will most certainly not use the same number for  
11 service "at the same location where the customer receives landline service," the "at the  
12 same location" statutory and rule criterion is rendered unreasonably meaningless where  
13 the wireless carrier neither has a presence, nor an interconnection arrangement over  
14 which calls can be routed, in the rate center area that constitutes "at the same location."  
15 My testimony centers on the "at the same location" issue within the original rate center  
16 area. There are many additional issues, beyond this proceeding and the scope of my tes-  
17 timony, regarding what meaning to apply with respect to Location Portability.

18 Q19: **Mr. Williams questions whether there are really routing issue problems. Did the**  
19 **industry workgroup ever discuss problems associated with routing issues?**

20 A: Yes, the industry workgroup acknowledged and listed the same problems that the FCC  
21 has failed to recognize and address in the *Nov. 10 Order*. See also Watkins Direct at p.  
22 15-21.

23 A thorough review of the workgroup reports reveals very interesting observations

1 and conclusions consistent with my Direct Testimony about the fact that intermodal port-  
2 ing would not be feasible if there are no business and network interconnection  
3 arrangements in place with the relevant wireless carrier in the local area that constitutes  
4 “at the same location.” I want to emphasize that the “at the same location” criterion is  
5 part of the statutory requirement and the FCC’s own definition of Service Provider Port-  
6 ability that forms the LNP requirement.

7 In a Report from the North American Number Council (“NANC”) submitted by  
8 its Chairman to the FCC on May 18, 1998 (“1998 NANC Report”), the group reported  
9 and explained unresolved intermodal LNP issues (Section 3 on page 6):<sup>1</sup>

10 SECTION 3 WIRELESS WIRELINE INTEGRATION ISSUES

11 3.1 Rate Center Issue

12 3.1.1 Issue: Differences exist between the local serving areas of  
13 wireless and wireline carriers. These differences impact Service Provider  
14 Portability with respect to porting both to and from the wireline and wire-  
15 less service providers. . . .

16 The 1998 Report concludes (on p. 7) that consensus could not be reached on a so-  
17 lution to the Rate Center Issue. (And subsequent reports in 1999 and 2000 have  
18 concluded the issue is still open.)

19 This 1998 Report also includes, as an Appendix D, a Background Paper that dis-  
20 cusses some of the same issues related to the rate center disparity issue between wireless  
21

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<sup>1</sup> See letter from Alan C Hasselwander, Chair, North American Numbering Council, dated May 18, 1998, to Mr. A. Richard Metzger, Jr., Chief, Common Carrier Bureau, Federal Communications Commission. The various reports and white papers are attached to Mr. Hasselwander’s May 18 letter. All of the NANC reports to be referenced in this rebuttal testimony can be found on the FCC’s website by going to “Search” and then to “Search for Filed Comments.” These NANC reports are attached to the Petition for Declaratory Ruling filed by CTIA on January 23, 2003 in CC Docket No. 95-116 addressing LNP. By entering the docket number

1           and wireline operations. As I concluded in my Direct Testimony, there are technical  
2           infeasibility implications for intermodal porting where there is no presence by the wire-  
3           less

1 carrier in the area that constitutes “at the same location” because there is no network or  
2 business arrangement in place for the routing of calls. Most notably, as far back as 1998,  
3 the NANC realized these same issues and obstacles and reported them to the FCC:

### 4 3.0 Limitations on the Scope of Service Provider Portability 5

6 Due to the need to ensure proper rating and routing of calls, the NANC  
7 LNPA Architecture Task Force agreed that service provider portability was lim-  
8 ited to moves within an ILEC rate center. Section 7.3 of the NANC LNP  
9 Architecture & Administrative Plan report which has been adopted by the FCC,  
10 states, “portability is technically limited to rate center/rate district boundaries of  
11 the incumbent LEC . . . .  
12

13 1998 NANC Report, Appendix D - Rate Center Issue, Section 3.0, Limitations on the  
14 Scope of Service Provider Portability at p. 34, underlining added.

15 At p. 35 of the Appendix D Background Paper, the report notes four possible sce-  
16 narios -- two for wireline-to-wireless porting and two for wireless-to-wireline porting.  
17 For the first two wireline-to-wireless porting scenarios, the Background Information pa-  
18 per concludes in both cases that:

19 Porting would be permissible as long as the wireless service provider has  
20 established an interconnect agreement for calls to the wireless telephone number  
21 . . . .

22 [Underlining added]

23 The Background Paper goes on to explain that some of the scenarios described for wire-  
24 less-to-wireline porting would not be permissible, and this accounts for the competitive  
25 disparity that the FCC’s *Nov. 10 Order* has allowed.

26 Finally, the Background Paper at p. 35 summarizes exactly the same kind of tech-  
27 nical infeasibility issues related to routing that I set forth in my Direct Testimony, namely  
28 that LNP is only possible where there is a business and network interconnection ar-  
29 rangement in place with the relevant wireless carrier within the relevant rate center area:

1 The above examples provide only a small sample of potential porting scenarios.  
2 If all of the potential scenarios were examined, the following patterns would  
3 emerge:  
4

5 Porting from a wireline service provider to a wireless service provider  
6 ["WSP"] is permitted as long as the subscriber's initial rate center is within the  
7 WSP service area and the WSP has established interconnection/business arrange-  
8 ments for calls to wireless numbers in that rate center . . . .  
9

10 Porting from a wireless service provider to a wireline service provider is  
11 *only* allowed when the subscriber's physical location is within the wireline rate  
12 center associated with the wireless NPA-NXX.  
13 [Underlining added]

14 The latter statement above is the realization that porting in the wireless-to-  
15 wireline direction is limited by the rate center disparity issue and this limitation leads to  
16 disparity in competitive opportunities. The former underlined statement above that inter-  
17 connection and business arrangements are prerequisites to permit porting is a conclusion  
18 that the FCC refuses to acknowledge, yet is a fact. In subsequent reports, NANC repeat-  
19 edly stated that there had been no consensus on rate center disparity issues and no  
20 recommendation on a technical or competitively fair approach to remedy the reported ob-  
21 stacles. In the last report that I can identify, the NANC lists the Rate Center Issue as an  
22 "Open Issue" and states that the reader should review the 1998 and 1999 reports for de-  
23 tails about the issue (the same discussion from the 1998 report that I have set forth above)  
24 and that "[n]o resolution of this issue has occurred."

25 Q20: Are these conclusions by the FCC's expert industry work group consistent with  
26 your testimony?

27 A: Yes. Where there is no interconnection/business arrangement with a wireless carrier to  
28 which a number may be ported, the Petitioners have no established network or business  
29 arrangement to route calls; therefore, porting is not "permitted" as the work group prop-

1 erly concluded. Furthermore, the Petitioners have no statutory right or other ability to  
2 force wireless carriers to enter into proper “interconnection/business arrangements.” Ac-  
3 cordingly, contrary to Mr. Williams’ claims, the technical obstacles that I have outlined  
4 in the testimony are real.

5 A wireline LEC that may originate a call to a number of another carrier cannot  
6 unilaterally provision a calling service where there is no interconnection/business ar-  
7 rangement with the other carrier. Just as the introduction of an Extended Area Service  
8 (“EAS”) route between two incumbent LECs involves the establishment of interconnec-  
9 tion facilities and business arrangements between the two carriers, the ability of a LEC to  
10 exchange local exchange service calls with a wireless carrier also necessitates intercon-  
11 nection and the establishment of the necessary terms and conditions under which the  
12 traffic will be exchanged. Interconnection occurs as the result of a request by a carrier  
13 other than an incumbent LEC and is dependent on the mutual development of terms and  
14 conditions between the carriers for such interconnection. These obvious conclusions are  
15 embodied in the conclusion of the NANC work group.

16 **Q21: Mr. Williams at p. 20 and his Exhibit 6 diagrams claim that the Petitioners should**  
17 **provision network and/or create new arrangements for the delivery of local calls to**  
18 **some interconnection point beyond the Petitioners’ networks. Do the local competi-**  
19 **tion interconnection rules, or any other regulation, require the Petitioners to**  
20 **provision local services to distant points beyond their own networks?**

21 **A:** No. Mr. Williams’ statements are misleading and contrary to the interconnection re-  
22 quirements in the Act. Further, as admitted by Western Wireless in response to  
23 Interrogatory 7.b., attached hereto as Exhibit 1, Mr. Williams’ statements are contrary to

1 the interconnection agreements recently negotiated between Western Wireless and Peti-  
2 tioners.

3 For several reasons, the Petitioners are not required to provision services beyond  
4 their own networks, to purchase services from other carriers, or to deliver local exchange  
5 carrier service calls to points of interconnection beyond the Petitioners' own networks:

6 ■ The interconnection obligations established under the Act apply with respect to the  
7 service area of the incumbent LEC, not the service area of some other LEC:

8 For purposes of this section, the term 'incumbent local exchange carrier'  
9 means, with respect to an area, the local exchange carrier that (A) on the date of  
10 enactment of the Telecommunications Act of 1996, provided telephone exchange  
11 service in such area . . . .

12 47 U.S.C. § 251(h), (underlining added)

13 ■ It has long been established that the Act does not require an incumbent LEC to provi-  
14 sion, at the request of another carrier, some form of interconnection arrangement that is  
15 superior or extraordinary to that which the LEC provisions for itself. The LEC's obliga-  
16 tions are only to provide interconnection arrangements that are at least equal to those that  
17 the LEC provides for itself and its own service, not superior. However, the suggestion by  
18 Mr. Williams that a Petitioner could be required to provision local exchange carrier ser-  
19 vices with transport to some distant point, or to purchase services from some other carrier  
20 for transport of traffic beyond the Petitioner's network (*e.g.*, from Qwest to transport traf-  
21 fic to the Qwest tandem), would represent just such extraordinary arrangement not  
22 required of the Petitioners. While an incumbent LEC may, at the incumbent LEC's sole  
23 discretion, voluntarily agree to extraordinary arrangements, the LEC would not do so

1 unless the carrier requesting such extraordinary arrangement is prepared to compensate  
2 the incumbent LEC or be responsible for the extraordinary costs for any such superior ar-  
3 rangement.

4 In the same *IUB II* cited above, the Eighth Circuit Court of Appeals reaffirmed its  
5 earlier conclusion, not affected by the Supreme Court's remand, that the FCC had unlaw-  
6 fully adopted and attempted to impose interconnection requirements on incumbent LECs  
7 that would have resulted in superior arrangements to that which the incumbent LEC pro-  
8 vides for itself. It is now well established that an incumbent LEC is not required to  
9 provision some superior form of interconnection service arrangement at the request of  
10 another carrier, but that is Mr. Williams' suggestion. The Court concluded that "the su-  
11 perior quality rules violate the plain language of the Act." The Court concluded that the  
12 standard of "at least equal in quality" does not mean "superior quality" and "[n]othing in  
13 the statute requires the ILECs to provide superior quality interconnection to its competi-  
14 tors." 219 F.3d at 757-758.

15 It is noteworthy here also to point out that under the invalidated superior quality  
16 rule that the FCC had originally adopted, even the FCC in imposing the unlawful re-  
17 quirement to provide some superior form of interconnection had nevertheless also  
18 concluded that the LEC should be paid for the extraordinary costs associated with the su-  
19 perior interconnection arrangement. Pursuant to Mr. Williams' suggestion, not only  
20 would Western Wireless require a superior quality interconnection from the Petitioners,  
21 he would also do so without compensation for the extraordinary costs.

22 ■ The FCC's own interconnection rules addressing the exchange of traffic subject to the  
23 so-called reciprocal compensation requirements envision only that traffic exchange take



1 place at an “interconnection point” on the network of the incumbent LEC, not at an inter-  
2 connection point on some other carrier’s network. “Incumbent LECs are required to  
3 provide interconnection to CMRS providers who request it for the transmission and rout-  
4 ing of telephone exchange service or exchange access, under the plain language of  
5 section 251(c)(2).” (underlining added) In the Matter of Implementation of the Local  
6 Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*,  
7 11 FCC Rcd. 15499 at para. 1015. *See also, Id.* at paras. 181-185. Moreover, Sections  
8 251(c)(2)(A)-(C) of the Act states:

9 (2) Interconnection.-- The duty to provide, for the facilities and equipment  
10 of any requesting telecommunications carrier, interconnection with the local ex-  
11 change carrier’s network-- (A) for the transmission and routing of telephone  
12 exchange service and exchange access; (B) at any technically feasible point  
13 within the carrier’s network; (C) that is at least equal in quality to that provided  
14 by the local exchange carrier to itself or to any subsidiary, affiliate, or any other  
15 party to which the carrier provides interconnection . . . (underlining added)

16 Therefore, it is Western Wireless’s obligation to provision its own network or ar-  
17 range for the use of some other carrier’s facilities outside of the incumbent LEC’s  
18 network as the means to establish that “interconnection point” on the network of the in-  
19 cumbent LEC.

20 ■ LECs such as the Petitioners generally do not offer or provide any local exchange call-  
21 ing service to their own customers that would involve transport to distant locations as  
22 suggested by Mr. Williams. Calls which involve transport to distant locations beyond the  
23 networks of the Petitioners are provided by interexchange carriers (“IXCs”), and these

1 calling services are not local exchange carrier services. The Act does not require the Pe-  
2 titioners to begin to offer some new and extraordinary form of local calling to their own  
3 customers. The involvement of the Petitioners in such calls is simply the provision of ac-  
4 cess services to IXC's that are the service providers to the end users.

5 Accordingly, there can be no expectation that Petitioners must transport local ex-  
6 change service traffic to some distant point when the Petitioners have no statutory or  
7 regulatory interconnection obligation to do so. Whether Mr. Williams' suggestion to the  
8 contrary (or the presumption embodied in the FCC's confusing statements in its recent  
9 orders) equates to a request that is infeasible because it is premised on the fulfillment of  
10 a network arrangement that does not exist and for which there is no legal requirement, or  
11 a request that imposes undue economic burden on the Petitioners because it would re-  
12 quire some extraordinary superior arrangement, it does not really matter because either  
13 potential outcome is sufficient to warrant suspension under Section 251(f)(2)(A) of the  
14 Act. Either condition is sufficient, on its own, under Section 251(f)(2).

15 **Q22: At page 20 of his Direct Testimony, Mr. Williams questions whether LNP costs**  
16 **would impose an undue economic burden on the Petitioners. What response do you**  
17 **have to his comments?**

18 **A:** With respect to the economic burden on the Petitioners, while some costs associated with  
19 LNP implementation may be recovered through a surcharge imposed on their own cus-  
20 tomers, there will be other costs incurred by the Petitioners beyond those costs that  
21 qualify for the surcharge treatment. And, if an improper form of LNP were imposed on  
22 the Petitioners, one that would impose some extraordinary form of interconnection with a  
23 requirement to incur transport costs to some distant point, there would be additional costs

1 associated with an attempt to comply with the directives and the provisioning of the ex-  
2 traordinary network and other business arrangements. The potential costs to transport  
3 traffic to some distant point are potentially unbounded.

4 Mr. Williams fails to acknowledge the significant adverse economic impact any  
5 of this would impose on the rural subscribers in South Dakota.

6 **Q23: On p. 22 of his Direct Testimony, Mr. Williams notes routing issues, potentially**  
7 **similar to those that you have discussed above, associated with a Notice of Apparent**  
8 **Liability (“NAL”) issued by the Enforcement Bureau of the FCC against Century-**  
9 **Tel of Washington. What is your response?**

10 **A:** I note that the NAL is not a final decision. Further, although all of the facts are not clear  
11 from the NAL, it is clear that CenturyTel had not received a suspension or interim sus-  
12 pension of the LNP requirement from the state commission. For these reasons, it is not  
13 clear to what extent, if any, this case may apply to other LECs, like the Petitioners.  
14 What is clear, however, is that the proper routing of calls, including in the LNP environ-  
15 ment, requires the carriers involved to establish interconnection and business  
16 relationships.

17 As I explained above, the Petitioners have no obligation to provision interconnec-  
18 tion to distant points beyond that at which the Petitioners provision any other local  
19 exchange service calls; the Petitioners have no obligation to put in place some superior  
20 form of interconnection service for the benefit of some other carrier that has not re-  
21 quested interconnection; and the Petitioners, in any event, cannot resolve these routing  
22 issues unilaterally because the Act states that interconnection terms and conditions are es-  
23 tablished by a carrier’s request to an incumbent.

1 Q24: On pp. 22-23, Mr. Williams states that if Petitioners do not implement LNP it will  
2 limit wireless to wireless LNP because wireless carriers use numbers assigned by  
3 LECs. How do you respond?

4 A: Mr. Williams admits in his answer to Interrogatory 19. that Western Wireless is not re-  
5 quired to use numbers assigned by LECs and that it can obtain its own numbers and not  
6 use those assigned by LECs.

7 Q25: On pp. 23-24 Mr. Williams notes that the FCC's Consumer and Governmental Af-  
8 fairs Bureau submitted a letter to NARUC addressing issues associated with  
9 requests for suspension before State commissions. Do you have any comment?

10 A: Yes. A thorough review of the Snowden letter finds that the actual substance is suppor-  
11 tive of the grant of the Petitioners' suspension requests. The letter simply asks the  
12 President of NARUC to remind state commissions to apply the "appropriate standard of  
13 review" to requests under Section 251(f) of the Act. The Petitioners have already dem-  
14 onstrated that grant of their requests is fully consistent with those standards, even beyond  
15 the standards required by the Act and beyond that which the Eighth Circuit Court of Ap-  
16 peals has confirmed and clarified.

17 The Snowden letter limits its suggestions regarding proper review to include only  
18 the "undue economic burden and technically infeasibility" criteria. Just as Mr. Williams  
19 has neglected to address the adverse impact on customers that LNP implementation  
20 would impose, Mr. Snowden also omits these considerations.

21 Q26: On page 24, Mr. Williams suggests that there are likely to be greater numbers of  
22 customers switching to wireless service. Do you have any comment about his state-  
23 ments?

1 A: Yes. First, Mr. Williams references Mr. Thierer's speculative CATO report that was pre-  
2 pared even before implementation of intermodal LNP in the top 100 MSAs had begun.  
3 The evidence that is available since November 24, 2003 indicates that the degree of in-  
4 termodal porting from wireline to wireless, in the more urban areas, is small and less than  
5 expected. And any expected interest in rural areas, such as those served by the Petition-  
6 ers, will even be less than the already nascent level of intermodal porting in urban areas.  
7 *See Watkins Direct at pp. 10-15.* In a May 21, 2004 News Release, the FCC reports that  
8 since November 2003, "[o]ver 3.5 million numbers have been switched. . . . Approxi-  
9 mately 229,000 involved landline customers taking their landline number to a wireless  
10 carrier." The latter statistic represents the initial six months of intermodal LNP experi-  
11 ence in the Nation's top 100 MSAs. Clearly, the national demand for intermodal LNP in  
12 metropolitan areas has been modest.

13 **Q27: Mr. Williams complains at pp. 24-25 that Western Wireless has had to spend re-**  
14 **sources for LNP. Is this relevant?**

15 A: No. The fact that the FCC mandated that LNP be implemented by CMRS carriers is not  
16 at issue in these proceedings. Congress explicitly established the opportunity for a rural  
17 telephone company to obtain a suspension or modification in Section 251(f)(2) under the  
18 broad protections Congress intended for rural customers and carriers. Nothing in these  
19 requirements includes consideration of actions of other carriers, either voluntarily or in-  
20 voluntarily.

21 **Q28: Mr. Williams complains at p. 25 that it would be "unfair" if the Petitioners are not**  
22 **required to implement LNP because it would limit Western Wireless opportunity to**  
23 **recoup its LNP costs by porting numbers from the Petitioners. How do you re-**

1       **spond?**

2     A:     Mr. Williams statement is not compelling given that LNP in the wireless-to-wireline di-  
3           rection is only required, pursuant to the *Nov. 10 Order*, in the very limited circumstance  
4           where the wireless number resides in the correct LEC rate center. The current circum-  
5           stances are more competitively fair than the disparate version of LNP that would result  
6           under the FCC's approach given the unresolved rate center disparity issues that I have  
7           discussed in my response to Question 19. At least, Western Wireless has some opportu-  
8           nity to port numbers from other wireless providers, whereas most of the Petitioners would  
9           have little or no opportunity to recoup their costs by porting-in numbers. Requiring the  
10          Petitioners to implement LNP would be even more "unfair" than the situation about  
11          which Western Wireless complains.

12   **Q29: What relevance does Mr. Williams' quote on p. 26 regarding rate centers and rout-**  
13   **ing and rating of calls have here?**

14   A:     None. Mr. Williams apparently believes that the quoted FCC statement at p. 26, lines 13-  
15           16 of his Direct Testimony has a meaning different than the facts would indicate. First,  
16           the rate center associated with a telephone number does not necessarily determine the  
17           service treatment of calls. Second, even if a LEC wanted to use rate center areas as the  
18           means to define local exchange carrier services, as I have already explained above, the  
19           LEC cannot and would not treat calls to a wireless user as a local exchange service call if  
20           the LEC has no interconnection or business arrangement in place with the wireless carrier  
21           because the LEC would have had no requirement to have network trunks in place or es-  
22           tablished terms with other carriers to route such calls. Calls to users of wireless carriers  
23           where there is no established network interconnection or business arrangements in place

1 are necessarily handed off to IXC's who complete such calls to a distant point. Therefore,  
2 "rated in the same fashion" simply means that the calls to the ported number are treated  
3 as IXC calls as any other call is treated for which there is no interconnection or business  
4 arrangement in place with the wireless carrier that would allow for the routing of a call by  
5 the LEC to the wireless carrier as a local call.

6 Q30: **What concluding comments would you offer to the Commission with regard to the**  
7 **pending Requests?**

8 A: For all of the reasons set forth in my Direct Testimony and herein, I respectfully urge the  
9 Commission to grant the suspension requests of the Petitioners. Their requests satisfy the  
10 criteria set forth in Section 251(f)(2) of the Act and are consistent with the preservation  
11 of the public interest:

12 ■ The costs to implement LNP, wireline-wireline and wireline-wireless, would impose  
13 significant adverse economic impacts on the users of telecommunications in rural areas of  
14 South Dakota served by Petitioners.

15 ■ The FCC's *Nov. 10 Order* as well as subsequent orders and statements regarding in-  
16 termodal LNP create more problems than solutions. Intermodal LNP would impose on  
17 the Petitioners either undue economic burdens, requirements that are not technically fea-  
18 sible, or both.

19 ■ Suspension of the implementation of LNP for these Petitioners is consistent with the  
20 public interest, convenience and necessity in that the costs of LNP implementation to  
21 both telecommunications users and the Petitioners are significant and the benefits are  
22 slight as evidenced by the lack of demand for LNP among consumers in the areas served  
23 by the Petitioners in rural South Dakota.

1 Q31: What is the scope of the modification or suspension that the Petitioners seek from  
2 this Commission pursuant to Section 251(f)(2)?

3 A: Specifically, the current suspension of the FCC's LNP requirements should be extended  
4 until conditions may have changed (*i.e.*, a change in the cost related to demand) relevant  
5 to the public interest considerations that form the basis here for the Petitioners' suspen-  
6 sions. This would include suspension until the FCC and the Courts make a full and final  
7 disposition of the outstanding issues, including the porting interval and wireless to wire-  
8 line LNP requirements. Further, the Commission should confirm that the Petitioners  
9 have no obligation to transport calls beyond their service areas for purpose of LNP or any  
10 other purpose. Finally, when the issues are resolved and the public interest circumstances  
11 may have changed, the Petitioners would need sufficient time to acquire and install the  
12 necessary hardware and software and to put in place the necessary administrative proc-  
13 esses.

14 Q32: Does this conclude your Rebuttal Testimony?

15 A: Yes.



## **EXHIBIT 1**

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025; TC04-038; TC04-044  
through TC04-056; TC04-060 through TC04-  
062; TC04-077; TC04-084; and TC04-085

**WWC'S RESPONSES TO  
SUPPLEMENTAL DISCOVERY  
REQUESTS OF PETITIONERS**

WWC License LLC, by and through its undersigned attorney, Talbot J. Wieczorek, of  
Gunderson, Palmer, Goodsell & Nelson, LLP, Rapid City, South Dakota, hereby responds to the  
Supplemental Discovery Requests of the Petitioners in the following dockets:

TC-04-025	Kennebec Telephone Co.
TC04-038	Santel Communications
TC04-044	Sioux Valley Telephone Co.
TC04-045	Golden West, Vivian Telephone Co and Kadoka Tele Co
TC04-046	Armour, Bridgewater-Canistota Tele Co and Union Tele Co
TC04-047	Brookings Municipal Utilities d/b/a Swiftel Communications
TC04-048	Beresford Municipal Telephone Company
TC04-049	McCook Cooperative Telephone Company
TC04-050	Valley Telecommunications Cooperative Association, Inc.
TC04-051	City of Faith Telephone Company
TC04-052	Midstate Communications, Inc.
TC04-053	Western Telephone Company
TC04-054	Interstate Telecommunications Cooperative, Inc.
TC04-055	Alliance Communications Inc. and Splitrock Properties
TC04-056	RC Communications, Inc., and Roberts County Telephone Cooperative Assn.
TC04-060	Venture Communications Cooperative
TC04-061	West River Cooperative Telephone Company
TC04-062	Stockholm-Strandburg Telephone Company
TC04-077	James Valley Cooperative Telephone Company
TC04-084	Tri-County Telcom
TC04-085	Cheyenne Sioux Tribe Telephone Authority

## II. DISCOVERY REQUESTS

### A. INTERROGATORIES

1. At page 10, lines 6-14 of Mr. Williams' testimony, he states that similarly situated LECs are not seeking a delay or suspension of LNP implementation. Identify the similarly situated LECs to which you refer and explain with specificity how they are similar to Petitioners, including information on their respective switch upgrade costs, number of lines in service and type of interconnection with wireless carriers.

**ANSWER:** See Exhibit A for the list of similarly situated LECs that have implemented LNP. Further, numerous LECs throughout the country have not requested waivers of their obligation of porting numbers by May 24, 2004. In fact, some LECs in South Dakota did not apply for a waiver or extension and it was represented by Attorney Rogers that these LECs, planned on providing portability by the deadline and, therefore, were not filing for waivers or extensions. Western Wireless Corporation does not have access to specific switch upgrade costs for LEC's in our service area.

2. At page 10, lines 16-20, and page 11, lines 1-15, you identify other state commissions that have ruled on LEC LNP suspension requests. Identify any other state commissions that have ruled on temporary or permanent LNP suspension requests of which you are aware and indicate how they have ruled.

**ANSWER:** A comprehensive list of regulatory filings and decisions related to Local Number Portability can be found at [www.NECA.org](http://www.NECA.org).

3. At page 12, lines 23-26 and page 13, lines 1-7, you state that "Petitioners have identified only a few technical or feasibility issue in the implementation of local number portability" and list three issues. Identify where each Petitioner identified the alleged issues in its Petition, testimony and discovery responses by page number and where applicable, by line number or question number.

As way of clarification, it does not appear any of the companies claim that LNP would be a requirement that is “technically infeasible” under 47 U.S.C. § 251(f)(2)(A)(iii). However, in response to interrogatory 27 of Western Wireless’ First Set of Interrogatories to the Petitioners, Petitioners either answered that there was no technical infeasibility but that implementing the portability under certain circumstances could be difficult based on the lack of rule makings or be difficult to do so using a local seven digit dialed basis. There exists testimony that has been prefiled by various Petitioners also reiterating these positions. To the extent that this interrogatory requests that every instance of every reference that any of the Petitioners’ 22 witnesses may have made to these three areas must be set forth, the interrogatory is objected to as overly broad and unduly burdensome especially in that it seeks summaries of Petitioners’ own testimony.

4. At page 14, lines 17-22, you state that “the LEC will need to route a call to a ported number to the serving tandem.”
  - a. Identify the serving tandem to which you refer.
  - b. Identify any requirement that LECs must route calls to a ported number to the serving tandem. If you are not aware of any such requirement, indicate so.
  - c. Indicate whether you contend that if the LECs route a call to a number ported to Western Wireless to the serving tandem they would also need to route calls to Western Wireless numbers that are not ported numbers to the serving tandem.

**ANSWER:**

**4.a) The Qwest LATA or local tandem to which the trunk group that delivers wireless terminating traffic is connected.**

**4.b) Pursuant to federal law and regulation, it is the LEC’s requirement to appropriately route the traffic for ported numbers. There is no specific requirement to route to a serving tandem. This is just one of several methods a carrier can use to deliver local traffic to a ported number. Typically, for low traffic volumes, tandem routing, using common or shared trunk groups, is the most cost efficient means of routing such traffic. It appears that Petitioners used the most costly way to route traffic as the basis for their cost analysis rather than considering other ways of routing.**

**4.c) Objection: How calls need to be routed for Western Wireless numbers separate and a part from LNP issues is not relevant in any of these filings and is not likely to lead to the discovery of admissible evidence.**

5. At page 15, footnote 23, you state that the Central Office Code Administration Guidelines published by the Alliance for Telecommunications Industry Solutions “permit a carrier to receive a rate center number assignment and designate a routing point for calls to those numbers that is outside the rate center to which they are assigned.” Do you contend that this requires Petitioners to route calls to a ported number to the serving tandem?

**ANSWER: This reference was provided to indicate that tandem routing practices for local calling are not new to the industry. See also response to Question 4.a.**

6. At page 15, line 6, you state that “[t]his practice is permitted under industry guidelines...”  
To what practice are you referring?

**ANSWER: The practice of identifying separate rating and routing points for NPA-NXXs and properly rating and routing traffic based on those designations.**

7. At page 3, lines 3-7, you state that you have been “actively involved in negotiation of interconnection agreements with most, if not all, of the Petitioners in this case on behalf of Western Wireless” in response to a question as to whether you have any background or familiarity with Western Wireless’ system in South Dakota and any familiarity with the Petitioners’ systems in South Dakota.

- a. Based on your familiarity with the Petitioners’ systems obtained through the interconnection agreement process, do any of the Petitioners route traffic to Western Wireless customers to the serving tandem identified in 4a?
- b. Does Western Wireless contend that the Petitioners agreed in the interconnection agreements to route traffic to Western Wireless to the serving tandem?
- c. Does Western Wireless contend that the FCC’s local number portability rules would require parties to an interconnection agreement to route traffic in a manner different from that to which they agreed?

**ANSWER:**

**7.a) Not at this time. Petitioners can, at any time, begin to route traffic to Western Wireless customers to the serving tandem.**

**7.b) No.**

**7.c) No, but nothing prevents Petitioners from amending, by mutual agreement, the interconnection agreements with Western Wireless.**

8. At page 16, lines 9-11, you state that “[t]he facts contained in the Petitions do not meet the standard that would lead one to conclude the economic burden exceeds that ‘typically associated with efficient competitive entry.’” Identify the facts that would meet the standard that would lead one to conclude the economic burden exceeds that typically associated with efficient competitive entry.”

**ANSWER: One method to establish this burden might include demonstration of costs that are extraordinary in comparison to other similarly situated companies that have implemented LNP. Another method may be to demonstrate that a Petitioners financial wherewithal is insufficient to sustain implementation of LNP. Adoption of any new service to the public usually entails some costs. The fact that adoption and providing of new service to the public entails a cost in and of itself would not logically lead to the conclusion that there has been any type of undue economic burden or adverse economic impact. Otherwise, any service that would add costs could be barred under such a test.**

9. At page 16, lines 12-17, you state that you have experience with SOA and LNP queries in response to a question concerning whether you have experience with the real life costs of LNP implementation.

- a. Indicate whether this means you have experience with the cost of SOA and LNP queries.
- b. If you have such experience, indicate the recurring and non-recurring cost associated with SOA and LNP queries.

**ANSWER:**

**9.a) Yes.**

**9.b) Please see Western Wireless' response to question 12 of the First Discovery Requests.**

10. At page 17, lines 11-13, you state that Petitioners have included fees for SOA non-recurring set up charge or non-recurring Service Order Administration "when estimated port volumes provide no justification for an automated SOA interface."

- a. Identify the specific Petitioners to which you refer.
- b. Indicate for each Petitioner identified in 10.a. whether you contend that the Petitioner's cost estimates for an automated SOA interface are unreasonable or whether you contend that an automated SOA cannot be justified, or both.
- c. Indicate whether Western Wireless utilizes an automated SOA.
- d. Indicate the recurring and non-recurring costs paid by Western Wireless for the SOA interface.

**ANSWER:**

**10.a) All Petitioners**

**10.b) We contend that automated SOA is not justified for the low port volume forecasts made by the Petitioners**

**10.c) Although irrelevant to the proceeding, Western does use an automated SOA interface**

**10.d) Objection, this interrogatory calls for information that is irrelevant and not likely to lead to admissible evidence.**

11. At page 17, lines 14-18, you state that "many of the Petitioners have not provided sufficient information in response to interrogatories to address the validity of switch upgrade cost claims at this time." Identify the Petitioners to which you refer.

**ANSWER: All Petitioners that have not provided actual switch vendor quotations.**

12. At page 18, lines 5-15, you state that Beresford Telephone has overstated SOA costs.

Identify all other Petitioners that you contend have overstated SOA costs.

**ANSWER: See response to 10.a.**

13. At page 18, lines 9-11, you state that Beresford can utilize the Number Portability

Administration Center Help Desk to perform the SOA function for 24 ports for a total of \$360.

- a. Explain how you arrived at a cost of \$360.
- b. Is the Number Portability Administration Center Help Desk and automated SOA interface?
- c. Does Western Wireless utilize the Number Portability Administration Center Help Desk?
- d. If Western Wireless does not utilize the Number Portability Administration Center Help Desk, explain why it does not and identify the factors that resulted in Western Wireless selecting a different SOA interface.
- e. How long does it take to complete a port using the Number Portability Administration Center Help Desk?
- f. Identify the annual number of port requests that Western Wireless has projected it will make of each of the Petitioners for the years 2004 through 2010.

**ANSWER:**

**13.a) The \$360 figure was estimated by taking the number of ports and multiplying by the estimated per port line charge for SOA services (\$15).**

**13.b) No.**



13.c) Western Wireless does use the Number Portability Administration Center Help Desk in certain situations.

13.d) N/A

13.e) The transaction time for using the Number Portability Administration Center Help Desk is estimated to take less than 2 minutes.

13.f) Please see Exhibit B.

14. At page 19, lines 1-3, you state that “Western Wireless estimates the cost of routing traffic to these ported numbers to be \$1,120 for the year including non-recurring charges.” Explain with specificity how you derived this amount.

**ANSWER:** The estimate was calculated using these inputs:

- A \$400 estimated non-recurring charge for reconfiguration of existing trunk group to Qwest tandem.
- West River estimate of annual ports – 12
- Qwest toll transit rate - \$.003123
- Estimated local calls originated each day on West River network to each ported number – 6
- Estimated average length of local calls originated on West River network to ported numbers – 3.5 minutes
- Assuming a traffic volume estimate after 2.5 years of port activity
  
- The monthly recurring cost was calculated using this formula: (Annual Ports\*2.5 years)\*(local calls per day\*length of calls\*days per month)\*transit rate  
Alternatively:  $(12*2.5)*(6*3.5*30)*0.003123 = \$59.02 \text{ per month} \times 12 \text{ months} = \$708$

*$NRC \text{ of } \$400 + 12 \text{ Months of MRC of } 708 = 1^{st} \text{ year costs of } \$1108$*

15. At page 19, lines 1 and 2, you state “[a]ssuming these porting customers to have average incoming call characteristics...”, identify with specificity what are the “average incoming call characteristics” to which you refer.

**ANSWER:** See input assumptions in response 14.

16. At page 19, lines 8-10, you state that you believe the FCC “views that it is the originating carrier’s responsibility to deliver local traffic for termination...”

- a. For each of the Petitioners, identify the calls to Western Wireless numbers by number and routing arrangement, for which Petitioner pays reciprocal compensation to Western Wireless.
- b. Indicate whether you contend that Petitioners would be required to pay reciprocal compensation on calls to numbers ported from the Petitioner to Western Wireless.

**ANSWER:**

**16.a) Objection, the interrogatory is irrelevant and unlikely to lead to admissible evidence and is also overly burdensome and unduly broad in that it seeks information on calling arrangements and number and routing arrangements not related to LNP. Further, each Petitioner would have this information readily available in their existing records.**

**16.b) Yes.**

17. At page 20, lines 5-8, you state that you eliminated switch maintenance cost because LNP does not result in additional increase in this cost. At Addendum D to your Answers to Interrogatories, Local Number Portability Operations Agreement, Section 7.3, states that “[e]ach Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.” Reconcile these two statements.

**ANSWER: Switch maintenance and routing table management should be routine practice that is not altered by Local Number Portability operations.**

18. At page 20, lines 13-15, you state that “[t]he routing methods proposed by the Petitioners are inefficient in that they make little or no utilization of existing equipment and shared facilities currently used to exchange calls with other carriers.” Identify with specificity and for each Petitioner, the “existing equipment and shared facilities currently used to exchange calls with other carriers” to which you refer.

**ANSWER: Trunk groups that currently deliver wireless and other carrier traffic to Petitioners directly from Qwest or any other common/shared trunk group that is connected to the PSTN.**

19. At page 22, lines 18-23 and page 23, lines 1-4, you state that if Petitioners do not implement LNP it will limit wireless to wireless number portability because wireless carriers use numbers assigned to them by LECs.

- a. Are you required to use numbers assigned by LECs? If you contend that you are so required, identify the requirement.
- b. Can Western Wireless obtain its own numbers and not use those assigned by LECs? If you contend that Western Wireless cannot obtain its own numbers, explain why not.

**ANSWER:**

**19.a) No, Western Wireless is not required to use numbers assigned by LECs, however, the Petitioners are required to provide them. Many of Western Wireless’ customers and other wireless customers are currently served by numbers provided by LECs.**

**19.b) Yes, but it would take months and would not resolve porting issues for existing customers.**

20. At page 23, lines 9-11, you state that “Qwest has experienced a substantial loss of customers to competitors since the advent of number portability.”

- a. Identify the basis for this statement.
- b. Identify the number of customers lost by Qwest since the advent of number portability in South Dakota.
- c. Identify the number of customers lost by Western Wireless since the advent of number portability in South Dakota.

**ANSWER:**

**20.a) This statement was based on discussions with CLEC's in South Dakota and on transit billing volume changes for Western Wireless traffic delivered to CLEC CLLIs.**

**20.b) Western Wireless does not have specific customer counts for Qwest line loss in South Dakota.**

**20.c) Objection, this interrogatory calls for information that is irrelevant and not likely to lead to admissible evidence and the question is vague. Without waiving the objection, Western Wireless answers as follows: Western Wireless has experienced people leaving Western Wireless for other wireless providers and people leaving other wireless providers and coming to Western Wireless. Further, Western Wireless has experienced people wishing to leave Western Wireless who have not been able to port their numbers because Petitioners have refused to implement LNP.**

21. At page 25, lines 3-7, you state that "it is unfair that carriers who we compete with, that are similarly obligated, would be exempted from their obligations and thereby limit our ability to recoup the LNP investments we have made by restricting our opportunity to leverage those investments in a competitive marketplace."

- a. Do you believe it would also be unfair if the Petitioners' opportunity to leverage LNP investments was restricted?
- b. Assuming the Petitioners were LNP capable, identify by Petitioner and by rate center all rate centers where Western Wireless would be required to port numbers from Western Wireless to the Petitioner.

**ANSWER:**

**21.a) To the extent that Petitioners have to abide by the same coverage and rate center rules as other carriers, Yes.**

**21.b) Western Wireless would be obligated to port numbers where the Petitioner provides service.**

**22. At Exhibit 5A and 5B of your testimony, you list recurring and non-recurring transport costs for some Petitioners. For each Petitioner, explain how the recurring and non-recurring transport cost was derived. If no transport cost is listed for a Petitioner, explain why not.**

**ANSWER: Non-recurring costs in Exhibit 5A and 5B are, for the most part, those costs provided by the Petitioners. Any modifications made to these costs are explained in my testimony. Recurring costs in Exhibit 5A and 5B were developed as follows:**

**SOA: Ports per year / 12 months x \$15 Neustar (NPAC) help desk fee per port.**

**LNP Query: Cost provided by Petitioners or access lines in service x six originating calls per day x 30 days x .00075 per query**

**If no transport cost is listed for a Petitioner, the Petitioner has indicated they will have no numbers ported from their network.**

**23. At the conference call sponsored by the South Dakota Commission on June 1, 2004,**

**Western Wireless stated that the testimony and exhibits of Ron Williams include “general” and “company specific” portions. Identify by page and line number the parts of Mr.**

**Williams' testimony that are “general” and the parts that “company specific.” Also identify the Exhibits or parts thereof that are “general” and the ones that are “company specific.” For the testimony and Exhibits that are company specific, identify the company to which they apply.**

**ANSWER: These terms were used in regard to comments made during that meeting that Mr. Watkins constitutes a general expert and the costs experts were considered cost company specific experts. In that regard, all the testimony of Ron Williams replying to the issues raised by Mr. Watkins should be considered general testimony applying to policy**

and other issues raised by Mr. Watkins. Regarding company specific, the cost testimony of Williams is specific for each petitioner in that it replies to the specific cost testimony submitted by each petitioner. To the extent that the cost testimony could be argued to also apply to the public interest, convenience and necessity issues, the cost analysis is presented for that matter. The same would be said for the testimony of technical difficulties in implementing LNP. Namely, the technical testimony is directed at each petitioner specifically but may also be regarded as applying to general testimony regarding implementation issues.

24. Do you contend that imposing the LNP obligations on Petitioners is not unduly economically burdensome? If your answer to the preceding interrogatory is in the affirmative, please state the following with respect to each Petitioner:

- a. State in detail each fact, matter and circumstance upon which you rely to support your answer.
- b. Identify each person having knowledge of the facts that support your answer and state the substance of their knowledge.
- c. Identify all documents upon which you rely which support your answer.

**ANSWER: Yes.**

**24.a) Petitioners have failed in their burden to show undue economic burden in their refusal to provide their cost documents received from vendors. Refusal of the Petitioners to provide such documents makes it impossible to make a conclusion that undue economic burden exists. Further, Petitioners all have the financial ability to pay for LNP. See also responses to interrogatory 8 above.**

**24.b) Petitioners and their witnesses.**

**24.c) Discovery to date and prefiled testimony of Petitioners.**

25. On page 25, lines 1-3 of Mr. Williams' testimony, he states that "We have upgraded our network, implemented new processes, systems, and hired supporting resources to implement LNP in South Dakota. In other words, we have absorbed the costs of implementing LNP

under our FCC obligations.” Please list the cost Western Wireless has incurred for these various items in South Dakota.

**ANSWER: Objection, as this interrogatory calls for information that is not relevant or likely to lead to admissible evidence, unduly burdensome and overly broad and vague. Without waiving said objection, Western Wireless answers as follows: Such costs are not kept by State.**

## **B. DOCUMENT PRODUCTION**

1. At page 13, lines 15-21, you cite the testimony of Steven D. Metts. Provide a complete copy of Mr. Metts’ testimony that includes the cited language.

**ANSWER:**

**1) Q. “On Page 2 Line 21, beginning on 20 and 21 you state the purpose of your testimony. Is it your contention that suspension of the FCC requirements is based upon technological incapability for any of your companies?”**

**A. “No.”**

**See attached Exhibit C.**

2. Provide all documents referenced in your responses to Interrogatories 1-25.

**ANSWER: Documents previously provided otherwise. Also, see attached Exhibits A, B and C.**

DATED this \_\_\_\_\_ day of June, 2004.

WWC License, LLC

By Ron Williams

Its

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

On this, the \_\_\_\_\_ day of \_\_\_\_\_ 2004, before me, the undersigned officer, personally appeared \_\_\_\_\_ as \_\_\_\_\_ of WWC License LLC, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

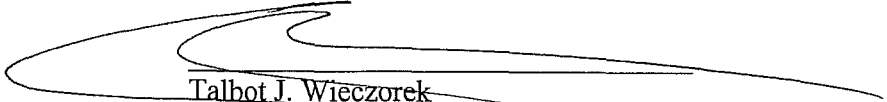
(SEAL)  
My Commission Expires:



Dated this 11 day of June, 2004.

**AS TO OBJECTIONS:**

GUNDERSON, PALMER, GOODSSELL  
& NELSON, LLP



Talbot J. Wieczorek

Attorneys for WWC License LLC  
440 Mt. Rushmore Road, Fourth Floor  
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Rapid City SD 57709  
Phone: 605-342-1078  
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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 11 day of June, 2004, I served a true and correct copy of WWC's Responses to Petitioners Supplemental Discovery Requests in LNP Dockets, by email and Next Day Delivery, postage paid to:

**dprogers@riterlaw.com**

Darla Pollman Rogers  
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**Attorney for:**

Kennebec Telephone Co.  
Sioux Valley Telephone Co  
Golden West, Vivian Telephone Co and Kadoka  
Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
Beresford Municipal Telephone Company  
McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
Stockholm-Strandburg Telephone Company  
Tri-County Telcom  
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Richard Coit  
SD Telecommunications Assoc.  
PO Box 57  
320 E Capitol Ave  
Pierre SD 57501-0057

**Attorney for:**

South Dakota Telecommunications Assoc.

A handwritten signature in black ink, appearing to read 'Talbot J. Wiczorek', with a long horizontal stroke extending to the right.

Talbot J. Wiczorek

## EXHIBIT A TO WWC REPLY TO PETITIONERS' SUPPLEMENTAL DISCOVERY REQUEST

**Similarly Situated Carriers***ND LEC's with Similar Profiles to SD Petitioners*

STATE	NAME	STATUS	ICA	Suspension Filed?	LNP DATE	ACCESS LINES	Number of Switches
ND	NORTHWEST COMMUNICATIONS COOPERATIVE	SENT BFR	Y	No	5/24/2004	5,302	15
ND	CONSOLIDATED TELCOM	SENT BFR	Y	No	5/24/2004	8,713	19
ND	DAKOTA CENTRAL TELECOMMUNICATIONS COOP.	SENT BFR	Y	No	5/24/2004	5,228	8
ND	DICKEY RURAL TELEPHONE COOPERATIVE	SENT BFR	Y	No	5/24/2004	5,400	17
ND	GRIGGS COUNTY TELEPHONE CO.	SENT BFR	Y	No	5/24/2004	2,171	4
ND	INTER-COMMUNITY TELEPHONE COMPANY, LLC	SENT BFR	Y	No	5/24/2004	2,626	9
ND	BEK COMMUNICATIONS COOPERATIVE	SENT BFR	Y	No	5/24/2004	7,267	18
ND	MOORE & LIBERTY TELEPHONE CO.	SENT BFR	Y	No	5/24/2004	998	2
ND	POLAR COMMUNICATIONS MUTUAL AID CORP.	SENT BFR	Y	No	5/24/2004	9,233	22
ND	POLAR TELECOMMUNICATIONS, INC.	SENT BFR	Y	No	5/24/2004	1,604	7
ND	RESERVATION TELEPHONE COOPERATIVE	SENT BFR	Y	No	5/24/2004	7,812	20

**EXHIBIT B TO WWC'S RELY TO SUPPLEMENTAL DISCOVERY**  
**Western Wireless Corp.**

LEC	Projected Port Requests (first 5 years of porting)
ALLIANCE/SPLITROCK TOTAL	660
BERESFORD MUNICIPAL TELEPHONE CO.	96
CHEYENNE RIVER SIOUX TRIBAL TELEPHONE AUTH.	230
CITY OF BROOKINGS MUNICIPAL TELEPHONE DEPT.	1117
CITY OF FAITH MUNICIPAL TELEPHONE CO.	0
FORT RANDALL TELEPHONE COMPANY/MT. RUSHMORE	458
GOLDEN WEST COMPANY - KADOKA TELEPHONE CO.	42
GOLDEN WEST COMPANY - UNION TELEPHONE CO.	122
GOLDEN WEST COMPANY-BRDGWATER-CANISTOTA TELEPHONE CO. (Armour)	224
GOLDEN WEST TELEPHONE COOPERATIVE, INC.	1101
INTERSTATE TELECOM. COOP., INC. - SOUTH DAKOTA	1019
JAMES VALLEY COOPERATIVE TELEPHONE COMPANY	284
KENNEBEC TELEPHONE CO.	54
MCCOOK COOPERATIVE TELEPHONE COMPANY	154
MIDSTATE COMMUNICATIONS, INC.	323
RC COMMUNICATIONS, INC./ROBERTS COUNTY	147
SANTEL COMMUNICATIONS COOPERATIVE, INC.-SD	348
SIOUX VALLEY TELEPHONE CO.- GOLDEN WEST COMPANY	397
STOCKHOLM - STRANDBURG TELEPHONE CO.	52
TRI-COUNTY TELCOM, INC.	31
VALLEY TELECOM COOPERATIVE ASSOCIATION, INC.	253
VENTURE COMMUNICATIONS COOPERATIVE	173
VIVIAN TELEPHONE CO.	1279
WEST RIVER COOPERATIVE TELEPHONE COMPANY	272
WEST RIVER TELECOMMUNICATIONS COOP (MOBRIDGE) - SD	181
WESTERN TELEPHONE CO.	77

1 implementation.

2 Q. Do you have any sense or any feel for what  
3 the additional charges incurred by each of these  
4 companies is?

5 A. No. Those companies withdrew before we had  
6 the data request for the costs and did not submit any  
7 costs to me.

8 Q. On Page 2 Line 21, beginning on 20 and 21 you  
9 state the purpose of your testimony.

10 Is it your contention that suspension of  
11 the FCC requirements is based upon technological  
12 incapability for any of your companies?

13 A. No.

14 Q. If you would, turn to Page 5, as well.

15 A. (Witness complies.)

16 Q. When was the FCC Order -- referring to Page  
17 5, when was the FCC Order issued?

18 A. November 10th, 2003.

19 Q. So all of the NMECG members have known since  
20 then that they were going to have to be within  
21 compliance?

22 A. Yes.

23 Q. When did ENMR and ValleyTel apply for a  
24 request of waiver to the FCC?

25 A. I don't know that.

## **CERTIFICATE OF SERVICE**

I hereby certify that an original and ten (10) copies of the enclosed document were hand-delivered to the South Dakota PUC on June 14, 2004, directed to the attention of:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

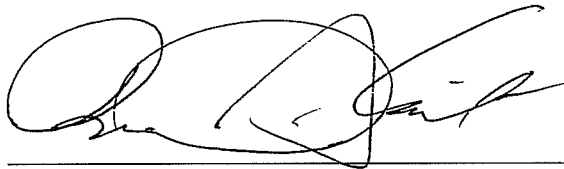
A copy was sent via e-mail and overnight Federal Express to the following individual:

Talbot Wieczorek  
Gunderson Palmer Goodsell & Nelson  
440 Mount Rushmore Road  
Rapid City, SD 57701

A copy was sent via e-mail and US Postal Service First Class mail to the following individual:

David Gerdes  
May Adam Gerdes & Thompson  
503 S. Pierre Street  
Pierre, SD 57501

Dated this 14<sup>th</sup> day of June, 2004.

A handwritten signature in black ink, appearing to read 'Richard D. Coit', is written over a horizontal line.

Richard D. Coit, General Counsel  
South Dakota Telecommunications Association  
PO Box 57 – 320 East Capitol Avenue  
Pierre, SD 57501-0057

LAW OFFICES  
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[www.riterlaw.com](http://www.riterlaw.com)

ROBERT C. RITER, Jr.  
DARLA POLLMAN ROGERS  
JERRY L. WATTIER  
JOHN L. BROWN

MARGO D. NORTHRUP, Associate

June 15, 2004

**RECEIVED**

JUN 15 2004

**OF COUNSEL:**  
Robert D. Hofer  
E. D. Mayer  
TELEPHONE  
605-224-5825  
FAX  
605-224-7102

Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Re:       Docket Number TC04-056  
          Docket Number TC04-045  
          Docket Number TC04-061  
          Docket Number TC04-050  
          Docket Number TC04-052  
          Docket Number TC04-085  
          Docket Number TC04-062  
          Docket Number TC04-025  
          Docket Number TC04-051  
          Docket Number TC04-055  
          TC04-025, 48, 52, 53, 56

Roberts County and RC  
Golden West, Vivian, Kadoka  
West River  
Valley  
Midstate  
CRST  
Stockholm-Strandburg  
Kennebec  
Faith  
Alliance

Dear Pam:

Enclosed are the original and ten copies of REBUTTAL TESTIMONY on behalf of the above-named companies for filing in the above dockets.

By copy of this letter, I am also serving those persons named on the Certificate of Service.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures



**RECEIVED**

BEFORE THE PUBLIC UTILITIES COMMISSION

JUN 15 2004

OF THE STATE OF SOUTH DAKOTA

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

REBUTTAL TESTIMONY OF

ROD BOWAR

**REBUTTAL TESTIMONY OF**

**ROD BOWAR**

**ON BEHALF OF**

**KENNEBEC TELEPHONE COMPANY**

**June 14, 2004**

1 Q. Please state your name, business name and address.

2 A. **My name is Rod Bowar. I am the General Manager of Kennebec Telephone Com-**  
3 **pany (“Kennebec”), whose address is 209 South Main, Kennebec, South Dakota**  
4 **57544.**

5 Q. What is the purpose of your testimony?

6 A. **I will provide rebuttal testimony to various statements made by Ron Williams in his**  
7 **testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-**  
8 **less).**

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners “waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations.” How do you respond?

12 A. **I dispute Mr. Williams’ characterization of events as baseless and inflammatory.**  
13 **Once the FCC made it clear that wireline carriers would be required to port num-**  
14 **bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Ken-**  
15 **nebec took immediate steps to investigate the cost and the processes involved with**  
16 **LNP and to explore its legal options. Because Kennebec had no experience with**  
17 **LNP, it took time to gather the pertinent information and to make the decision to**  
18 **seek a suspension of the requirement from the Commission. Further, the suspension**  
19 **petition itself took time and effort to prepare because Kennebec wanted to present**  
20 **as complete a petition as possible, accompanied by cost information as complete as**  
21 **possible.**

22 Q. Do you agree with Mr. Williams’ statement at page 14, lines 19-22, in which he states  
23 that “LECs will need to route a call to a ported number to the serving tandem” and to Mr.  
24 Williams’ statement at page 15, lines 1-4 when he discusses the routing of allegedly “lo-  
25 cal calls?”

1     **A.     I believe that Mr. Williams’ statement is not consistent with the interconnection**  
2           **agreement signed by Kennebec and Western Wireless. Pursuant to that agreement,**  
3           **Kennebec did not agree to route traffic destined for Western Wireless to the serving**  
4           **tandem. Rather, traffic terminating to Western Wireless is routed to an interex-**  
5           **change carrier. Therefore, it appears that Western Wireless’ argument really is a**  
6           **bad faith attempt to change the agreement between the parties.**

7     **Q.     At page 19, lines 8-10, Mr. Williams states that it is his belief that “the FCC views that it**  
8           **is the originating carrier’s responsibility to deliver local traffic for termination and that**  
9           **the costs associated with fulfilling that responsibility are not a number portability cost.”**  
10          **What is your response to this statement?**

11    **A.     Mr. Williams’ statements are inconsistent and should be rejected. First he argues**  
12          **that Kennebec should be required to install new facilities to deliver ported calls to**  
13          **Western Wireless and then he argues that the cost of those facilities are not number**  
14          **portability costs. Further, as discussed at lines 1-6 above, Mr. Williams’ suggestion**  
15          **that it is Kennebec’s responsibility to deliver traffic destined to Western Wireless**  
16          **through a serving tandem is not consistent with the interconnection agreement be-**  
17          **tween Kennebec and Western Wireless.**

18    **Q.     At page 20, lines 13-16, Mr. Williams states that “[t]he routing methods proposed by the**  
19          **Petitioners are inefficient in that they make little or no utilization of existing equipment**  
20          **and shared facilities currently used to exchange calls with other carriers.” How do you**  
21          **respond?**

22    **A.     The routing methods reflected in the cost exhibit attached to Kennebec’s Petition**  
23          **are based on the current routing arrangements that Kennebec has in place with**  
24          **other carriers, namely, calls that are dialed on a local 7-digit basis are routed via di-**  
25          **rect connections. Therefore, if calls to numbers ported to a carrier are to be dialed**

1 on a local 7-digit basis, a direct connection needs to be established between the car-  
2 riers.

3 Q. Would Western Wireless' routing proposal have impacts to Kennebec beyond LNP?

4 A. Yes. It is my understanding that Western Wireless' proposal would increase Ken-  
5 nebec's costs. First, Western Wireless' proposal would require Kennebec to pay for  
6 new facilities to the tandem provider that it does not need for any purpose other  
7 than to route calls to ported numbers to wireless carriers. Second, Kennebec would  
8 most likely have to pay transit traffic charges to the tandem provider for transport-  
9 ing the traffic to the wireless carriers.

10 Q. Is there any other impact?

11 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
12 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
13 wireless carriers are routed to interexchange carriers. For example, if Kennebec  
14 Customer A calls Western Wireless Customer B, Kennebec Customer A incurs a toll  
15 charge. However, under Western Wireless' proposal, it is my understanding that if  
16 Kennebec Customer A calls Western Wireless Customer B who now has a number  
17 ported from Kennebec, Kennebec Customer A would be charged for a local call.  
18 Customers may be encouraged to "give up" their existing wireless numbers and ob-  
19 tain wireline numbers for the sole purpose of porting that number to avoid toll  
20 charges. This is not only a bad public policy result, but also simply a bad faith at-  
21 tempt to avoid an important contract provision upon which Western Wireless has  
22 already agreed with our company.

23 Q. Does this conclude your rebuttal testimony?

24 A. Yes.


## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wiczorek  
[tjw@gpgnlaw.com](mailto:tjw@gpgnlaw.com)  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788

**RECEIVED**

BEFORE THE PUBLIC UTILITIES COMMISSION

JUN 15 2004

OF THE STATE OF SOUTH DAKOTA

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY, BERESFORD MUNICIPAL  
TELEPHONE COMPANY, MIDSTATE  
COMMUNICATIONS, INC., WESTERN  
TELEPHONE COMPANY, RC COM-  
MUNICATIONS, INC., AND ROBERTS  
COUNTY TELEPHONE COOPERATIVE  
ASSN. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025  
Docket No. TC04-048  
Docket No. TC04-052  
Docket No. TC04-053  
Docket No. TC04-056

**REBUTTAL TESTIMONY OF DAN DAVIS**

**ON BEHALF OF THE ABOVE-NAMED COMPANIES**

**June 14, 2004**

**REBUTTAL TESTIMONY OF DAN DAVIS**

1  
2  
3 Q. **Please State your name, Employer, Business Address and Telephone Num-**  
4 **ber.**

5  
6 A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
7 My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
8 68508. My Telephone number is (402) 441-4315.

9 Q. **Did you file Direct Testimony in the Applications listed above in this**  
10 **proceeding?**

11  
12 A. Yes. I filed direct testimony on behalf of the companies listed above (to be re-  
13 ferred to as the "RLECs") on May 14, 2004.

14 Q. **Have you read the direct testimony of Mr. Ron Williams on behalf of West-**  
15 **ern Wireless Corporation?**

16  
17 A. Yes, I have.

18  
19 Q. **What is the purpose of your rebuttal testimony?**

20  
21 A. The primary purpose of my rebuttal testimony is to respond to the testimony of  
22 Mr. Williams in regard to cost issues that he discussed in his testimony.

23 Q. **Mr. Williams claims that the Petitioners grossly overstate the implementa-**  
24 **tion and operational costs of LNP. (p.16:20-21;p.17;1-2) Has Mr. Williams**  
25 **provided evidence to support his claim?**

26  
27 A. No, he has not. Mr. Williams' claim is not backed by any supporting evidence or  
28 documentation. Review of Exhibit 5A attached to Mr. Williams testimony re-  
29 veals that he adjusted non-recurring cost items relating to "Other Internal Costs",  
30 "SOA Non-recurring set up charge," and "Non-recurring transport charges" as  
31 well as all of the monthly recurring cost categories. Mr. Williams' proposed  
32 changes to non-recurring and recurring costs have been arbitrarily reduced with-  
33 out any basis in facts.

1 I have attached Exhibit R1 to my rebuttal testimony that summarizes and com-  
2 pares the RLECs' cost exhibits that were filed with my May 14, 2004 testimony  
3 with the cost estimates that were filed by Mr. Williams on May 28, 2004.

4 Q. **Mr. Williams claims that the costs included in the category "Other Internal**  
5 **Costs" are overstated. (p.17:5-11) Do you agree with Mr. Williams?**

6  
7 A. No, I do not. Mr. Williams claims that the costs in this category are overstated  
8 because "the Petitioners have included costs to deal with 'Contracts for Porting'  
9 and costs related to the development of 'Intercarrier Porting Forms'." The  
10 RLECs have included costs for porting contracts because wireless carriers, includ-  
11 ing Western Wireless, have sent Local Number Portability Operations Agree-  
12 ments to the RLECs to govern the porting of telephone numbers between the  
13 wireline and wireless networks. I have attached copies of porting agreements sent  
14 to RLECs to this rebuttal testimony marked as Exhibit R2. Thus, these costs are  
15 undeniable.

16 Mr. Williams also claims that the costs related to the development of "Intercarrier  
17 Porting Forms" are also grossly overstated since porting forms are available to  
18 any carrier for a nominal fee. However, the costs included in this subcategory are  
19 not the costs associated with obtaining a porting form. The costs included in this  
20 subcategory are associated with obtaining the data to complete the form, complet-  
21 ing the form itself, and interacting with the wireless provider to confirm an under-  
22 standing and agreement with the information as compiled on the form. Based  
23 upon the information necessary to complete the Trading Partner Profile and port-  
24 ing questionnaires, an average of ten man-hours per Trading Partner Profile is a  
25 reasonable estimation of time required for this process. I have attached examples



1 of Trading Partner Profile forms and porting questionnaires to this rebuttal testi-  
2 mony marked as Exhibit R3.

3 Q. **Mr. Williams' states that some Petitioners have included non-recurring costs**  
4 **for an automated SOA interface (p. 17:11-13). What amount of costs did the**  
5 **RLECs use on Exhibit 2 on the line entitled "SOA Non-recurring set up**  
6 **charge" that was attached to Direct Testimony?**

7  
8 A. The RLECs did not include any non-recurring costs on the line entitled "SOA  
9 Non-recurring set-up charge" on Exhibit 2 that was attached to my direct testi-  
10 mony.

11 Q. **Mr. Williams states that Beresford has claimed a nonrecurring charge of**  
12 **\$1,800 and a monthly recurring charge of \$1,200 for Service Order Admini-**  
13 **stration. Do you believe Mr. Williams has reviewed Exhibit 2 that was at-**  
14 **tached to your direct testimony?**

15  
16 A. No, I do not. It appears that Mr. Williams' review of the RLECs cost analysis  
17 was using Exhibit 1 attached to discovery. The non-recurring cost as shown on  
18 Exhibit 2 for Beresford is zero. The recurring costs as shown on Exhibit 2 for  
19 Beresford were \$135 per month. In order to show a causal relationship between  
20 demand and costs, Beresford assumed three ports per month at an average cost of  
21 \$45 per port.

22 The RLECs, including Beresford, calculated the average cost per port assuming  
23 each port would require three contacts with the service bureau. Given the low  
24 level of demand and the resulting lack of learning plateau, communications with  
25 the service bureau can be expected to be more cumbersome than in an environ-  
26 ment where routine processing of ports occurs.

27 Q. **Mr. Williams has eliminated all costs from the line entitled "Other Recurring**  
28 **Costs." Will you please identify what costs are represented on the line item**  
29 **on Exhibit 2 entitled "Other Recurring Costs"?**  
30

1 A. Yes. These are the costs associated with the RLEC personnel processing a port-  
2 ing order through multiple internal and external processes and systems. These  
3 costs would include receiving the LSR forms and reviewing the LSR for accuracy  
4 against the RLECs internal records and verifying that the LSRS are filled out in  
5 compliance with the Ordering and Billing Forum standards. If the LSRs are de-  
6 termined to be accurate and there are no conflicts for which the RLEC needs to  
7 contact the wireless provider on, the RLEC personnel can then send the new ser-  
8 vice provider a Firm Order Confirmation. Once the FOC has been sent to the new  
9 service provider, the RLEC will contact the SOA service bureau, the time that is  
10 included in the category. Internal work orders will be initiated, processed and fi-  
11 nalized in order to activate the unconditional ten digit trigger on the correct date,  
12 to test and verify calls are being properly routed to the ported number, to discon-  
13 nect the end-user and ported number from the switch, to verify that the number  
14 can not be reassigned on the switch and in the customer service records, update  
15 billing records, and complete performance measurement analysis.  
16 Based upon the multiple manual processes involved, the RLECs estimated five  
17 hours per port.

18 Q. **Do you have any other comments with regarding Mr. Williams' cost esti-**  
19 **mates?**

20  
21 A. Yes. In its reply to supplemental discovery, Western Wireless projected that each  
22 RLEC would experience porting demand. Yet, in Mr. Williams' cost exhibits, he  
23 fails to include, with the exception of Beresford, any monthly recurring costs as-  
24 sociated with porting activity. I have included porting related costs on the lines  
25 entitled "SOA Monthly Charge" and "Other Recurring Costs." In addition, if

1 Western Wireless' estimates of ports are correct as shown in Response to Inter-  
2 rogatory 13.f., there will be fewer RLEC access lines than are shown on the cost  
3 exhibits, resulting in a higher cost per line per month. (Western Wireless' Re-  
4 sponses to Interrogatories are attached to the Rebuttal Testimony of Steven E.  
5 Watkins.)

6 Q. **Will you please explain the RLECs' rationale for using DS1 direct connec-**  
7 **tions in the cost analysis?**

8  
9 A. Yes, I will. Currently, RLECs do not route local traffic outside of their exchange  
10 boundaries. With intermodal LNP, a call to a number ported to a wireless carrier  
11 will terminate, in most cases, at a point of interconnection or switch located out-  
12 side of an RLEC exchange. If an RLEC routes a call to such a ported number  
13 over current equal access Feature Group D facilities, the customer would receive  
14 a recording instructing the customer to redial the number using one plus the NPA-  
15 NXX. To route the call as a local call would require the use of direct connections  
16 to each wireless provider.

17 In addition, the specified means provided in interconnection agreements between  
18 the RLECs and Western Wireless to route local traffic between the RLECs and  
19 Western Wireless is through the use of direct connections.

20 Q. **Mr. Williams states that it is unclear that any of the costs included in this line**  
21 **item concerning transport costs are recoverable under the FCC's rules per-**  
22 **taining to recovery via a line item surcharge on telecommunications custom-**  
23 **ers. (p. 19: 6-8) Have you addressed this issue in your direct testimony filed**  
24 **on May 14, 2004?**

25  
26 A. Yes, I have addressed transport cost recovery on pages 17 and 18 of my direct tes-  
27 timony.

1 Q. Did Mr. Williams address whether or not the Commission should grant a  
2 suspension or modification of the LNP requirement as implemented by the  
3 FCC pursuant to Section 251(f)(2)(A)(i) (significant adverse economic impact  
4 on telecommunications users generally) of the Act?  
5

6 A. No, he did not. This omission from Mr. Williams' testimony is particularly tell-  
7 ing because the costs that are associated with LNP implementation, that would be  
8 passed on to end users in the form of an FCC end user surcharge or an increase in  
9 local rates, would create a significant adverse economic impact on users, and the  
10 public interest, convenience and necessity would not be served by the implemen-  
11 tation of LNP in rural areas of South Dakota.

12 Q. In Mr. Williams' Testimony (p. 21: 5-7), there is a claim that little or no in-  
13 vestment would be avoided by delaying the implementation of number port-  
14 ability. Do you agree?  
15

16 A. No. LNP investment requirements may change based on the outstanding issues  
17 pending at the FCC. For example, the FCC, in its November 10, 2003 "Further  
18 Notice of Proposed Rulemaking," sought input from the North America Number-  
19 ing Council ("NANC") on reducing the porting interval for intermodal porting.  
20 The FCC also requested NANC to provide any recommendations on an appropri-  
21 ate transition period. The Intermodal Porting Interval Issue Management Group  
22 ("IMG") was formed to address these issues for the FCC. Based upon IMG's  
23 analysis, it determined that shortening the porting interval to approximately two  
24 days was the best interval based from a cost/benefit analysis. The IMG also esti-  
25 mated that the industry would need approximately 24 months to implement this  
26 proposal.<sup>1</sup>

---

<sup>1</sup> NANC Report & Recommendation on Intermodal Porting Intervals, Prepared for the NANC by the Intermodal Porting Interval Issue Management Group, May 3, 2004, at p. 4.

1 The IMG, in addressing rural telephone company impacts, stated that in order to  
2 support a shorter porting interval, service providers will need to change internal  
3 operating software and business practices and to implement mechanized systems  
4 and automated interfaces with other carriers. Based upon the IMG proposal, the  
5 exchange and approval of information on the local service request forms and the  
6 firm order confirmation forms would need to occur within a five-hour window in-  
7 stead of the current 24-hour window. Forms and processes used to exchange in-  
8 formation between carriers requiring manual intervention would need to be  
9 mechanized and automated to assure the five-hour standard could be met. I note  
10 that the IMG states that the FCC should recognize that this may cause economic  
11 impacts on rural telephone companies that may not be justified considering the  
12 size of the customer base and customer density.<sup>2</sup>

13 Thus, if the RLECs implement LNP before the porting interval and other ques-  
14 tions are resolved, they may utilize systems and interfaces that would have to be  
15 replaced once issues, like the porting interval, are addressed. This would, in ef-  
16 fect, result in a “double” LNP investment.

17 A suspension of the LNP requirement until after the FCC has decided the porting  
18 interval and other issues would allow RLECs to avoid the investment required to  
19 implement and modify systems and processes required under the current industry  
20 porting standard.

21 Q. **What would be the timeframe required for the RLECs to fully implement,**  
22 **test, and place LNP into commercial service, if required to do so?**  
23

---

<sup>2</sup> Id. at p. 25.

1 A. Based upon my analysis of LNP implementation, it would take the RLECs three  
2 to six months to implement LNP depending on the number of switches, whether  
3 additional hardware and/or software needs to be installed, and the availability of  
4 support personnel.

5 Q. **Does this conclude your testimony?**

6  
7 A. Yes, it does.

CERTIFICATE OF SERVICE

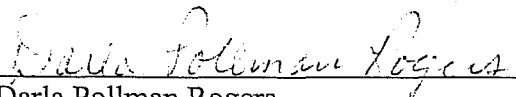
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

# Exhibit R1



Cost Comparison  
RLECs Exhibit 2 to WWC 5A

## LNP Exhibit 2 SD Companies

## Total Estimated LNP Non-recurring and Recurring Costs

## LNP Non-recurring Costs

## Switch Upgrade Costs

## Internal Business Procedure Changes

## Inter-carrier Testing

## Other Internal Costs

## LNP Query set up

## SOA Non-recurring set up charge

## Customer Notification Costs

## Total Non-recurring Costs excluding transport

## Non recurring transport charges

## Total Non-recurring Costs including transport

## LNP Monthly Recurring Costs

## SOA Monthly Charge

## LNP Query Costs per month

## Other Recurring Costs

## Total Recurring Monthly Costs excluding Transport

## Transport

## Total Recurring Monthly Costs including Transport

## Monthly Cost Calculations per line

## Total Nonrecurring cost per month excluding transport amortized over five years

## Total Nonrecurring cost per month including transport amortized over five years

## Total cost per month excluding transport

## Total cost per month including transport

## Access Lines excluding Lifeline

## LNP cost per line per month excluding transport

## LNP cost per line per month including transport

## LNP cost per line per month excluding transport with Surcharges and Taxes

## LNP cost per line per month including transport with Surcharges and Taxes

Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04
Beresford	Beresford	Kennebec	Kennebec	Midstate	Midstate	RC/Roberts	RC/Roberts	Western Tel	Western Tel
\$ 16,612	\$ 16,612	\$ 47,979	\$ 47,979	\$ 82,110	\$ 68,160	\$ 29,900	\$ 29,360	\$ 145,987	\$ 145,987
\$ 11,962	\$ 11,962	\$ 20,426	\$ 20,426	\$ 3,229	\$ 3,229	\$ 15,318	\$ 15,318	\$ 8,589	\$ 8,589
\$ 5,299	\$ 5,299	\$ 4,088	\$ 3,000	\$ 4,247	\$ 4,247	\$ 4,915	\$ 4,915	\$ 1,970	\$ 2,652
\$ 20,723	\$ 15,000	\$ 25,061	\$ 15,000	\$ 19,474	\$ 15,000	\$ 22,319	\$ 15,000	\$ 19,062	\$ 15,000
\$ 190	\$ 190	\$ 190	\$ -	\$ 1,900	\$ 190	\$ 380	\$ 190	\$ 190	\$ 190
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 1,119	\$ 1,062	\$ 825	\$ 825	\$ 2,434	\$ 1,094	\$ 1,367	\$ 1,299	\$ 982	\$ 933
\$ 55,905	\$ 50,125	\$ 98,569	\$ 87,230	\$ 113,394	\$ 91,920	\$ 74,199	\$ 66,082	\$ 176,780	\$ 173,351
\$ 1,401	\$ 400	\$ 1,401	\$ -	\$ 3,870	\$ 400	\$ 2,801	\$ 800	\$ 1,401	\$ 400
\$ 57,306	\$ 50,525	\$ 99,970	\$ 87,230	\$ 117,264	\$ 92,320	\$ 77,000	\$ 66,882	\$ 178,181	\$ 173,751
\$ 135	\$ 30	\$ 90	\$ -	\$ -	\$ -	\$ 180	\$ -	\$ 135	\$ -
\$ 150	\$ 197	\$ 150	\$ -	\$ 1,500	\$ 619	\$ 300	\$ 292	\$ 150	\$ 148
\$ 293	\$ -	\$ 141	\$ -	\$ 788	\$ -	\$ 400	\$ -	\$ 134	\$ -
\$ 578	\$ 227	\$ 381	\$ -	\$ 2,288	\$ 619	\$ 880	\$ 292	\$ 419	\$ 148
\$ 1,926	\$ 118	\$ 4,837	\$ -	\$ 7,749	\$ 295	\$ 9,967	\$ 177	\$ 4,996	\$ 118
\$ 2,504	\$ 345	\$ 5,218	\$ -	\$ 10,037	\$ 914	\$ 10,847	\$ 469	\$ 5,415	\$ 266
\$ 1,222	\$ 1,096	\$ 2,155	\$ 1,907	\$ 2,480	\$ 2,010	\$ 1,623	\$ 1,445	\$ 3,866	\$ 3,791
\$ 1,253	\$ 1,105	\$ 2,186	\$ 1,907	\$ 2,564	\$ 2,019	\$ 1,684	\$ 1,463	\$ 3,896	\$ 3,799
\$ 1,800	\$ 1,323	\$ 2,536	\$ 1,907	\$ 4,768	\$ 2,629	\$ 2,503	\$ 1,737	\$ 4,285	\$ 3,939
\$ 3,757	\$ 1,450	\$ 7,404	\$ 1,907	\$ 12,601	\$ 2,933	\$ 12,531	\$ 1,932	\$ 9,311	\$ 4,065
1,418	1,418	735	735	4,762	4,762	2,037	2,037	1,080	1,080
\$ 1.27	\$ 0.93	\$ 3.45	\$ 2.60	\$ 1.00	\$ 0.55	\$ 1.23	\$ 0.85	\$ 3.97	\$ 3.65
\$ 2.65	\$ 1.02	\$ 10.07	\$ 2.60	\$ 2.65	\$ 0.62	\$ 6.15	\$ 0.95	\$ 8.62	\$ 3.76
\$ 1.46		\$ 3.97		\$ 1.15		\$ 1.41		\$ 4.56	
\$ 3.05		\$ 11.58		\$ 3.04		\$ 7.07		\$ 9.91	

## Exhibit R2

## AGREEMENT

### WIRELESS-WIRELINE NUMBER PORTABILITY

by and between

Verizon Wireless

and

**Beresford Municipal Telephone Company**

THIS WIRELESS-WIRELINE NUMBER PORTABILITY SERVICE AGREEMENT ("Agreement") by and between Cellco Partnership d/b/a Verizon Wireless (a Delaware general partnership) and the Verizon Wireless Entities (collectively "Verizon Wireless"), each having an office and principal place of business at 180 Washington Valley Road, Bedminster, New Jersey 07921, and **Beresford Municipal Telephone Company**, on behalf of itself and its Affiliates (collectively "Carrier"), with offices located at 101 North 3 Rd Street, Beresford, SD 57004-1796. Verizon Wireless and Carrier may be collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, the above named Parties wish to enter into an Agreement with each other and to be in compliance with the applicable rules and regulations of the Federal Communications Commission ("FCC Rules and Regulations").

WHEREAS, the Parties wish to enter into an Agreement to facilitate the ability of Customers to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement through Local Number Portability.

WHEREAS, the Parties wish to enter into an Agreement to establish practices and procedures to ensure that Customer requests to port numbers are achieved efficiently, with minimal delays, except as required to validate a port request.

THEREFORE, the Parties wish to enter into this Agreement on the following terms and conditions:

#### 1. TERM

This Agreement shall become effective in accordance with Section 34 ("Effective Date") and, except as otherwise provided in this Agreement, shall continue in full force and effect until either Party terminates the Agreement by providing notice of termination in writing to the other Party at least thirty (30) days in advance of such termination pursuant to the Notice provisions set forth in Section 18 of this Agreement. Upon termination, the Parties shall continue to provide Local Number Portability as may be required by Applicable Law.

#### 2. CIRCUMSTANCES OF DEFAULT

A Party shall be in default under this Agreement if such Party:

- 2.1 Becomes insolvent, liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for the relief of debtors, or initiates any proceeding seeking protection from its creditors; and/or

- 2.2 Violates any applicable laws, statutes, or other legal requirements with respect to this Agreement; and/or
- 2.3 Fails to perform any material term, condition, or covenant of this Agreement and such Party fails to cure such nonperformance within thirty (30) calendar days of receipt of written notice of such default from the non-defaulting Party ("Cure Period"). Upon expiration of said Cure Period, the non-defaulting Party shall have the right to seek applicable remedies under this Agreement. When a default cannot be reasonably cured within the Cure Period, the time for cure may be extended by agreement of the Parties for such period of time as may be reasonably necessary to complete such cure, provided the defaulting Party shall have proceeded promptly to cure such default and shall continue to prosecute such curing with due diligence.
- 2.4 Notices hereunder shall be given to the Notice address set forth in Section 18.

### **3. REMEDIES AND TERMINATION**

- 3.1 In the event of default under this Agreement (and with respect to a default under Section 2.3, the Cure Period stated therein), the non-defaulting Party shall have the right, at its option, to suspend performance under this Agreement or to terminate this Agreement without further liability upon providing written notice of such termination to the defaulting party pursuant to the Notice provisions set forth in Section 18.
- 3.2 This Agreement may be affected by changes, modifications, orders, and rulings of regulatory bodies, including the FCC, to the extent competent jurisdiction otherwise exists. Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects the notifying Party's ability to perform its obligations under this Agreement. In the event a material modification is made to the obligations of a Party set forth in this Agreement, which materially affects the obligations of a Party hereunder, then either Party may terminate this Agreement pursuant to Section 1 of this Agreement. If neither Party exercises such a right of termination, and any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in applicable law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.
- 3.3 The rights set forth in Sections 2 and 3 of this Agreement are in addition to, and not in limitation of, any other right or remedy that a non-defaulting party may have at law or in equity.
- 3.4 Notices hereunder shall conform to the Notice provisions set forth in Section 18.

### **4. DEFINITIONS**

Unless the context clearly indicates otherwise, when a term listed in these Definitions is used in the Agreement, the term shall have the meaning stated in these Definitions. A defined term intended to convey the meaning stated in these Definitions is capitalized

when used. Other terms that are capitalized, and not defined in these Definitions or elsewhere in the Agreement, shall have the meaning stated in the Act.

- 4.1 Act: The Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended.
- 4.2 Affiliate: Shall have the meaning set forth in the Act.
- 4.3 Agreement: This Agreement including all appendices attached hereto, orders by a Party that have been accepted by the other Party, future amendments, modifications and supplements made in accordance herewith.
- 4.4 Applicable Law: All effective laws, government regulations and government orders, applicable to each Party's performance of its obligations under this Agreement.
- 4.5 Assigned Telephone Number: A telephone number that is assigned to a Customer that can originate and terminate telephone calls through the Public Switched Telephone Network. An Assigned Telephone Number may be a suspended telephone number unless that telephone number was suspended for fraud but, for avoidance of doubt, will not include a telephone number that has been disconnected.
- 4.6 Commercial Mobile Radio Service ("CMRS"): Shall be as defined by the FCC.
- 4.7 Customer Proprietary Network Information ("CPNI"): Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. Section 222.
- 4.8 Customer: An end user and subscriber to the services provided by either of the Parties.
- 4.9 Customer Information: CPNI of a Customer and any other non-public, individually identifiable information about a Customer or, if applicable, the purchase by a Customer of the services or products of a Party.
- 4.10 Customer Service Records ("CSR"): The records that contain the identity, service address, rate plan or plans, and other information on the Customer.
- 4.11 Electronic Data Interface ("EDI"): A data interface for exchange of information between providers.
- 4.12 End Office: A switching entity used in performing, originating and terminating functions for calls to or from Customers. As used in this Agreement, the term End Office shall be used in reference to End Office Switches used by Carrier and other wireline carriers.
- 4.13 Intercarrier Communications Process ("ICP"): The communication process between the OSP and the NSP, which validates the Customer information and initiates and completes the port request. The ICP includes the exchange of the LSR/LR.
- 4.14 Local Number Portability ("LNP"): Shall have the meaning set forth in the Act.
- 4.15 Local Service Request ("LSR"): Forms containing information about a Customer who desires to port a telephone number to the NSP. A sample LSR and

descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG").

- 4.16 Location Routing Number ("LRN"): Ten-digit number assigned to a switch or point of interconnection used for routing calls.
- 4.17 Metropolitan Statistical Areas ("MSA"): An MSA denotes a large urban population market as designated by the U.S. government.
- 4.18 Mobile Switching Center ("MSC"): A CMRS carrier's switching entity used to perform originating, transit and terminating functions for calls to and from end users, also referred to as Mobile Telecommunications Switching Office or "MTSO."
- 4.19 New Service Provider ("NSP"): The new provider that will provide service to the Customer and to whom the Customer ports its Assigned Telephone Number.
- 4.20 Number Portability Administration Center ("NPAC"): A neutral third party center that processes porting information from and disseminates that information to telecommunication carriers. The NPAC processes the NSP subscriber port request and downloads the LRN associated with the subscriber ported telephone number to local number portability databases.
- 4.21 Old Service Provider ("OSP"): The provider providing service to the Customer at the time the Customer requests porting of the Assigned Telephone Number.
- 4.22 Verizon Wireless Entities: Any FCC-licensed entity doing business as Verizon Wireless and/or directly or indirectly controlled by Cellco Partnership.

## 5. INFORMATION

The Parties acknowledge that Customer Information may be exchanged between the Parties and may be subject to legal restrictions on its use or disclosure, including without limitation laws relating to CPNI. The Parties may only obtain and use such restricted Customer Information in accordance with applicable laws and the restrictions contained in this Agreement. Prior to initiating a port request with the OSP, the NSP shall obtain consent from the Customer that permits the OSP to release to and/or to confirm with the NSP the information about the Customer that was sought by the NSP in the port request process. The NSP shall indemnify, defend, and hold harmless the OSP from and against any liabilities, claims, or demands, including costs, and expenses (including reasonable attorneys' fees) arising from or relating to any failure on the part of the NSP to obtain from the Customer consent for the OSP to release/confirm information about the Customer that was or is sought by the NSP in the port request process.

## 6. NUMBER PORTABILITY

### 6.1 Scope

The Parties shall provide LNP on a reciprocal basis pursuant to this Agreement in accordance with FCC Rules and Regulations as may be prescribed from time to time. "Delay" or "denial" of ports between Parties shall only occur in the event a Party is unable to complete the validation of those validation elements expressly set forth in Appendix A.

### 6.2 Procedures for Providing LNP

The Parties will follow the porting intervals applicable to wireline-wireline porting more specifically described in the North American Numbering Council's Local Number Portability Administration Selection Working Group, dated April 25, 1997, Appendix E, Section 7.1, Figure 1 until such time as the FCC adopts an LNP provisioning process flow and porting intervals for Inter-Service Provider LNP applicable between wireline and wireless carriers, at which time the Parties will follow LNP provisioning process flow and porting intervals established by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF for porting of Assigned Telephone Numbers.

- 6.2.1 For purposes of this Section 6, "Party A" refers to a Party whose Customer elects to become a Customer of the other Party ("Party B") and to utilize the original telephone number(s) corresponding to the service(s) it previously received from Party A, in conjunction with the service(s) it will now receive from Party B. Upon Party B receiving authorization from the Customer in accordance with Applicable Law and sending an LNP order to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.
- 6.2.2 When a telephone number is ported out of the Carrier network, Carrier will remove all line-based features and calling card(s) associated with the ported number(s) from its Line Information Database ("LIDB"). Reactivation of the line-based calling card in another LIDB, if applicable, is the responsibility of Verizon Wireless or the Customer.
- 6.2.3 When a Customer's number is ported between the Parties, Carrier will follow the 911 Guidelines recommended by the National Emergency Number Association ("NENA") with regard to emergency services databases.
- 6.2.4 When Party A ports telephone numbers of its Customer to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.
- 6.2.5 NXX codes shall be portable in accordance with FCC Rules and Regulations except those permitted to be designated non-portable by the same FCC Rules and Regulations. The Parties, moreover, shall ensure that all switches, whether currently owned or hereafter acquired, are upgraded to facilitate LNP to the extent required by FCC Rules and Regulations.
- 6.2.6 Numbers can be ported to and from carriers whose licensed areas overlap and where the receiving carrier has the ability to provide service, as applicable. Porting numbers under these circumstances does not require modification and/or changes to current transport agreements.

### 6.3 LNP Ordering Procedures

### 6.3.1 Numbers to be ported from Carrier to Verizon Wireless

6.3.1.1 Orders for LNP shall be submitted by VZW to Carrier using an LSR either via web GUI, FAX or EDI. Verizon Wireless shall submit LSRs to port numbers only on behalf of itself and entities for which it has authority to act.

6.3.1.2 Instructions for submitting an LSR to Carrier are available via **[TBD – identify where instructions are found]**.

### 6.3.2 Numbers to be ported from Verizon Wireless to Carrier

6.3.2.1 Orders for LNP shall be submitted by Carrier to Verizon Wireless utilizing validation information as required by Verizon Wireless and as applied to all other wireline carriers.

6.3.2.2 Instructions for submitting a validation request to Verizon Wireless will be provided via the Verizon Wireless process agreed to by the Parties.

## 6.4 Procedures for Providing LNP Through Full NXX Code Migration

When a Party has activated an entire NXX code for a single Customer and such Customer chooses to receive service from the other Party, the Parties shall follow the procedures set forth in the Industry Number Committee ("INC") Guideline 95-0407-0008 Central Office Code (NXX) Assignment Guidelines Section 7.

## 6.5 Procedures for Providing LNP Using Type 1 Numbers

Upon request of Verizon Wireless, the Parties will work together to migrate telephone numbers assigned to Type 1 trunks to the Verizon Wireless switch.

## 6.6 Procedures for Requesting LNP Capability

Either Party may submit a written request that the other Party upgrade any of its End Offices/MSCs to become LNP capable.

6.6.1 If either Party desires to have LNP capability deployed in an End Office/MSO of the other Party that is not currently capable, the requesting Party shall issue an LNP request to the other Party. The Party receiving such request will respond to the requesting Party within ten (10) calendar days of receipt of the request with a date for which LNP will be available in the requested End Office/MSO. The Party receiving the request shall proceed to provide for LNP in compliance with the procedures and timelines set forth in FCC Rules and Regulations.

6.6.2 The Parties will each be responsible for updating the LERG to reflect the LNP capabilities of their respective End Offices/MSOs.

6.7 The Parties acknowledge and agree that telecommunications system interruptions or service outages may occur which may delay the processing of port requests. The Parties shall use best reasonable efforts to avoid such interruptions or outages and with respect to scheduled outages or maintenance



activities shall work with each other to schedule them so as to minimize disruptions to subscribers. Scheduled interruptions/maintenance should adhere to standard industry agreed upon maintenance windows for the NPAC.

## **7. TROUBLE, MAINTENANCE AND REPAIR**

- 7.1 Both Parties agree to work expeditiously to resolve any issues associated with porting a Customer between the two Parties. Before either Party reports a trouble condition, that Party must first use commercially reasonable efforts to isolate the trouble to the other Party's actions or facilities. In order to facilitate trouble reporting and resolution, the Parties shall provide the trouble reporting contact information, per Section 22 of this Agreement. It is the responsibility of each Party to maintain the accuracy of its contact information and to notify the other Party of changes and modifications.
- 7.2 As part of the commitments set forth in Section 7.1 of this Agreement, each Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.

## **8. DIRECTORY LISTINGS**

This Agreement does not govern or authorize the inclusion of listings in directories that may be published by a Party. Verizon Wireless shall not indicate on an LSR to be submitted to Carrier that it seeks for a ported number to be listed in a Carrier directory. Any listings shall be subject to separate agreement.

## **9. FRAUD**

The Parties agree to cooperate in good faith with each other to investigate, minimize, and take corrective action in cases of fraud related to number portability. Each Party assumes responsibility for all fraud related to number portability associated with its Customers and accounts. Neither Party shall bear responsibility for, and shall have no obligation to investigate or make adjustments to, the accounts of the other Party in cases of fraud by the other Party's Customers or other third parties.

## **10. COSTS**

The Parties to this Agreement will be responsible for their own costs incurred in implementing this Agreement.

## **11. USE OF TRADEMARKS**

The Parties agree that they will not use the name, service marks or trademarks of the other Party or any of its affiliated companies in any manner whatsoever without such Party's specific written consent, which consent the other Party may grant or withhold in its sole discretion. Neither Party is licensed hereunder to conduct business under any logo, trademark, service or trade name (or any derivative thereof) of the other Party. Neither Party shall issue any press release or other publicity concerning this Agreement without the prior written consent of the other Party, which consent the other Party may grant or withhold in its sole discretion. Neither Party may imply any direct or indirect affiliation with or sponsorship or endorsement of it or its services or products by the other Party. Any violation of this Section 11 shall be considered a material breach of this Agreement.

**12. COMPLIANCE WITH LAWS**

The Parties shall comply with all federal, state and local laws applicable to their performance hereunder. Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.

**13. FORCE MAJEURE**

Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure results from causes beyond its reasonable control ("Conditions"), whether or not foreseeable by such Party. Such Conditions include, but are not limited to, acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts. If any such Condition occurs, the Party delayed or unable to perform ("Delayed Party"), upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis during the continuance of such Condition (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period); provided, however, that the Party so affected shall use commercially reasonable efforts to avoid or remove such Condition and both Parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease. Nothing in this Agreement shall require the non-performing Party to settle any labor dispute except as the non-performing Party, in its sole discretion, determines appropriate.

**14. ASSIGNMENT**

This Agreement or any right or interest under this Agreement may not be assigned or transferred nor may any obligation under this Agreement be delegated without the prior written consent of the other Party, which consent may not be unreasonably withheld. Any attempted assignment or delegation in violation of this Section 14 shall be void and ineffective and constitute default of this Agreement.

**15. BINDING EFFECT**

This Agreement shall inure to the benefit of, and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

**16. INDEMNIFICATION**

- 16.1 Each Party ("Indemnifying Party") shall indemnify, defend, and hold harmless the other Party ("Indemnified Party"), the Indemnified Party's Affiliates, (for purposes of this Section 16, Affiliates shall include Verizon Wireless Entities) and the directors, officers and employees of the Indemnified Party and the Indemnified Party's Affiliates, from and against any and all liabilities, claims, demands, suits, actions, settlements, judgments, fines, penalties, injuries, damages, or losses including costs (including court costs) and expenses (including reasonable attorneys' fees) ("Claims") that arise out of bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person to the extent such injury, death, damage, destruction or loss, was proximately caused by the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party, the Indemnifying Party's Affiliates, or the directors, officers, employees, agents, or contractors (excluding the Indemnified Party) of the Indemnifying Party or the Indemnifying Party's Affiliates, in relation

to a port request under this Agreement, including a Claim where there is (a) a claim, demand, suit or action by a person who is not a Party, (b) a settlement with, judgment by, or liability to, a person who is not a Party, or (c) a fine or penalty imposed by a person who is not a Party (collectively referred to as a "Third Party Claim").

- 16.2 A Party seeking to be indemnified hereunder shall follow, and the Indemnifying Party's obligations under Section 16.1 shall be conditioned on following, the Indemnification Process set forth in this Section 16.2.

16.2.1 The Indemnified Party: (a) shall provide the Indemnifying Party with prompt, written notice of any Claim after becoming aware thereof (including a statement of facts known to the Indemnified Party related to the Claim and an estimate of the amount thereof); (b) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Claim; (c) shall not consent to any settlement or compromise of a Third Party Claim without the written consent of the Indemnifying Party; (d) shall permit the Indemnifying Party to assume the defense of a Third Party Claim (including, except as provided below, the compromise or settlement thereof) at the Indemnifying Party's own cost and expense, provided, however, that the Indemnified Party shall have the right to approve the Indemnifying Party's choice of legal counsel.

16.2.2 If the Indemnified Party fails to comply with Section 16.2.1 with respect to a Claim, to the extent such failure shall have a material adverse effect upon the Indemnifying Party, the Indemnifying Party shall be relieved of its obligation to indemnify, defend and hold harmless the Indemnified Party with respect to such Claim under this Agreement.

16.2.3 Subject to 16.2.4 and 16.2.5, below, the Indemnifying Party shall have the authority to defend and settle any Third Party Claim.

16.2.4 With respect to any Third Party Claim, the Indemnified Party shall be entitled to participate with the Indemnifying Party in the defense of the Claim if the Claim requests equitable relief or other relief that could affect the rights of the Indemnified Party. In so participating, the Indemnified Party shall be entitled to employ separate counsel for the defense at the Indemnified Party's expense. The Indemnified Party shall also be entitled to participate, at its own expense, in the defense of any Claim, as to any portion of the Claim as to which it is not entitled to be indemnified, defended and held harmless by the Indemnifying Party.

16.2.5 In no event shall the Indemnifying Party settle a Third Party Claim or consent to any judgment with regard to a Third Party Claim without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. In the event the settlement or judgment requires a contribution from or affects the rights of an Indemnified Party, the Indemnified Party shall have the right to refuse such settlement or judgment with respect to itself and, at its own cost and expense, take over the defense against the Third Party Claim, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify or hold harmless the Indemnified Party against, the Third Party Claim for any amount in excess of such refused settlement or judgment.

16.2.6 The Indemnified Party shall, in all cases, assert any and all provisions in applicable Tariffs and Customer contracts that limit liability to third persons as a bar to, or limitation on, any recovery by a third-person claimant.

16.2.7 The Indemnifying Party and the Indemnified Party shall offer each other all reasonable cooperation and assistance in the defense of any Third Party Claim.

16.3 Each Party agrees that it will not impede or bring any action against the other Party, the other Party's Affiliates, or any of the directors, officers or employees of the other Party or the other Party's Affiliates, based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by the other Party or the other Party's Affiliate and that arises out of performance of this Agreement.

16.4 Each Party's obligations under this Section 16 shall survive expiration, cancellation or termination of this Agreement.

## **17. RELATIONSHIP OF THE PARTIES**

17.1 Neither Party undertakes by this Agreement or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. The relationship of the Parties under this Agreement shall be that of independent contractors and is a non-exclusive relationship. Nothing contained in this Agreement is intended to give rise to an employment relationship, partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of employers, partners or joint venturers.

17.2 Except for provisions herein expressly authorizing a Party to act for another Party, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party in writing, which permission may be granted or withheld by the other Party in its sole discretion.

17.3 Each Party shall have sole authority and responsibility to hire, fire, compensate, supervise, and otherwise control its employees, agents and contractors. Each Party shall be solely responsible for payment of any Social Security or other taxes that it is required by Applicable Law to pay in conjunction with its employees, agents and contractors, and for withholding and remitting to the applicable taxing authorities any taxes that it is required by Applicable Law to collect from its employees.

17.4 A Party may use a contractor of the Party (including, but not limited to, an Affiliate of the Party) to perform the Party's obligations under this Agreement, provided that a Party's use of a contractor shall not release the Party from any duty or liability to fulfill the Party's obligations under this Agreement.

## **18. NOTICES**

Unless otherwise specified in this Agreement, all notices required under this Agreement shall be given in writing. All notices shall be given by personal delivery, express delivery service with next Business Day delivery, confirmed facsimile (with copy delivered by personal delivery, express delivery service with next Business Day delivery or certified mail, return receipt requested) or certified mail, return receipt requested to the person(s) specified below or to such other addresses as a Party may designate by written notice to the other Party. If sent by the United States Postal Service mail, such notices shall be deemed received on the earlier of actual receipt or five (5) business days following deposit. For the other forms of notice, notice will be deemed given as of (a) where there is personal delivery of the notice, the date of actual receipt, (b) where the notice is sent via express delivery service for next Business Day delivery, the next Business Day after the notice is sent, and (c) where the notice is sent via facsimile telecopy, if the notice is sent on a Business Day and before 5 PM in the time zone where it is received, on the date set forth on the telecopy confirmation, or if the notice is sent on a non-Business Day or if the notice is sent after 5 PM in the time zone where it is received, the next Business Day after the date set forth on the telecopy confirmation.

Notices shall be sent to:

To Verizon Wireless: Verizon Wireless  
Port Center  
300 River Rock Blvd  
Murfreesboro, TN 37128  
Attn: Port Center Director  
Fax: 1-615-372-2425

With a copy to: Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Assistant General Counsel – Procurement &  
Technology  
Fax: (908) 306-7766

If to Carrier: [provide carrier notice information]

## 19. WAIVER

The delay or failure of either Party to enforce any of the provisions of this Agreement, or exercise in any respect any right or remedy provided for in this Agreement or at law or in equity, or to require performance of any of the provisions of this Agreement, or to exercise any option which is provided under this Agreement shall not be deemed a waiver of any such provisions, rights, remedies or options under this Agreement.

## 20. SEVERABILITY

If any of the provisions of this Agreement shall be invalid or unenforceable, then such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement. The entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.

**21. LIMITATION OF LIABILITY**

Except as otherwise provided in this Agreement, neither Party shall be liable to the other Party, the other Party's Customers or to any other person in connection with the performance or nonperformance under this Agreement, including but not limited to, any claims for any indirect, incidental, consequential, special damages, including (without limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

**22. ESCALATION PROCEDURES**

The Parties agree to provide each other with trouble reporting contacts and procedures via their respective web sites or other means agreed to by the Parties. In addition, the Parties agree to provide each other with escalation contacts and procedures via their respective web sites or other means agreed to by the Parties. Should a Party encounter any problems with respect to compliance with this Agreement that cannot be resolved through the trouble reporting contacts and procedures, then a Party may utilize the escalation contacts set forth in Appendix B ("Trouble Reporting General Contact Information") and the procedures set forth in Appendix C ("Carrier Escalation Procedures") and Appendix D ("Carrier Trouble Ticket Detail"). However, this Section 22 shall not operate in limitation or derogation of Sections 2 or 3 of this Agreement or the notice requirements set forth therein. In the event either Party fails to provide contact and procedures for trouble reporting and escalation, the Parties may utilize the Notice provisions set forth in Section 18.

In addition to the escalation procedures set forth in this Section 22, either Party may seek resolution of a dispute arising under this Agreement by pursuing any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the FCC or other regulatory body, or a court of competent jurisdiction; provided, however, that a Party pursuing any such remedy shall first notify the other Party of the dispute in writing through the Notice provisions set forth in Section 18 of this Agreement.

**23. ARTICLE HEADINGS**

The headings of the Articles are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

**24. CHOICE OF LAW**

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction.

**25. AMENDMENTS, MODIFICATIONS AND SUPPLEMENTS**

Amendments, modifications and supplements to this Agreement are allowed, provided that (a) all such amendments, modifications and supplements shall be in writing signed by authorized representatives of both Parties; and (b) all such amendments, modifications and supplements shall by reference incorporate this Agreement in its entirety and identify the specific sections or paragraphs contained herein which are amended, modified or supplemented; and (c) all such amendments, modifications and supplements shall not be construed to adversely affect vested rights or causes of action

which have accrued prior to the effective date of such amendment, modification or supplement.

**26. ENTIRE AGREEMENT**

This Agreement together with its appendices constitutes the entire agreement between the Parties and cancels all contemporaneous or prior agreements, whether written or oral, with respect to the subject matter of this Agreement.

**27. RESERVATION OF RIGHTS**

Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party hereby expressly reserves, its rights to (a) challenge the lawfulness of this Agreement and any provision of this Agreement; (b) seek changes in this Agreement (including, but not limited to, changes in rates, charges and the porting services that must be offered) through changes in Applicable Law; and (c) challenge the lawfulness and propriety of, and to seek to change, any Applicable Law, including, but not limited to any rule, regulation, order or decision of the FCC, other regulatory body or a court of applicable jurisdiction. Nothing in this Agreement shall be deemed to limit or prejudice any position a Party has taken or may take before the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry fora. The provisions of this Section 27 shall survive the expiration, cancellation or termination of this Agreement.

**28. SURVIVAL**

The rights, liabilities and obligations of a Party for acts or omissions occurring prior to the expiration, cancellation or termination of this Agreement, the rights, liabilities and obligations of a Party under any provision of this Agreement regarding confidential information, indemnification or defense, or limitation or exclusion of liability, and the rights, liabilities and obligations of a Party under any provision of this Agreement which by its terms or nature is intended to continue beyond or to be performed after the expiration, cancellation or termination of this Agreement, shall survive the expiration, cancellation or termination of this Agreement.

**29. TERRITORY**

Verizon Wireless shall include a list of states in which its affiliates or other related entities operate and in which Verizon Wireless seeks to port Assigned Telephone Numbers with Carrier. With respect to Carrier this Agreement shall apply only to the territories in the states listed in Appendix E that are served by the Carrier affiliates listed in Appendix F. The foregoing shall not be construed to require that the porting between the Parties which is contemplated by this Agreement be memorialized by, or otherwise reduced to, an agreement under 47 U.S.C. §251 or otherwise construed to confer jurisdiction on states, including their regulatory agencies, over such porting unless otherwise conferred by Applicable Law.

**30. THIRD PARTY BENEFICIARIES**

Except as expressly set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein shall create or be construed to provide any third persons (including, but not limited to, Customers or contractors of a Party) with any rights (including, but not limited to, any third-party beneficiary rights) hereunder. Except as expressly set forth in this Agreement, a Party shall have no liability under this Agreement to the Customers of the other Party or to any other third person.

## 31. WARRANTIES

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED, OR TO BE PROVIDED, UNDER THIS AGREEMENT AND THE PARTIES DISCLAIM ANY OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE WARRANTIES AGAINST INFRINGEMENT, AND WARRANTIES ARISING BY TRADE CUSTOM, TRADE USAGE, COURSE OF DEALING OR PERFORMANCE, OR OTHERWISE.

## 32. INTELLECTUAL PROPERTY

- 32.1 Except as expressly stated in this Agreement, this Agreement shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by either Party. Except as expressly stated in this Agreement, neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual property right, of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.
- 32.2 Except as stated in Section 32.4, neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its Affiliates (for purposes of this Section 32.4, Affiliates shall include Verizon Wireless Entities) or Customers based on or arising from any Third Party Claim alleging or asserting that the provision or use of any service, facility, arrangement, or software by either Party under this Agreement, or the performance of any service or method, either alone or in combination with the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any Party or third person. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.
- 32.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY EACH PARTY OF THE OTHER'S SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.
- 32.4 The Parties agree that the services provided hereunder shall be subject to the terms, conditions and restrictions contained in any applicable agreements (including, but not limited to software or other intellectual property license agreements) between the Parties and their respective vendors. The Parties agree to advise each other, directly or through a third party, of any such terms, conditions or restrictions that may limit a Party's use of a service provided by the other Party that is otherwise permitted by this Agreement. Upon written request of a Party, to the extent required by Applicable Law, the Party receiving such request will use its best efforts, as commercially practicable, to obtain intellectual property rights from its vendor to allow the requesting Party to use the service in the same manner as the Party receiving such request that are coextensive with its intellectual property rights, on terms and conditions that are equal in quality to



the terms and conditions under which it has obtained its intellectual property rights. The Party making such request shall reimburse the other Party for the cost of obtaining such rights.

### 33. CONFIDENTIALITY

33.1 As used in this Section 33, "Confidential Information" means the following information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with, or anticipation of, this Agreement:

33.1.1 books, records, documents and other information disclosed pursuant to this Agreement;

33.1.2 any forecasting information provided pursuant to this Agreement;

33.1.3 Customer Information (except to the extent that (a) the Customer information is published in a directory, (b) the Customer information is disclosed through or in the course of furnishing a Telecommunications Service, such as a Directory Assistance Service, Operator Service, Caller ID or similar service, or LIDB service where such disclosure is otherwise authorized by applicable agreements or law, or (c) the Customer to whom the Customer Information is related has authorized the Receiving Party to use and/or disclose the Customer Information);

33.1.4 information related to specific facilities or equipment (including, but not limited to, cable and pair information);

33.1.5 any information that is in written, graphic, electromagnetic, or other tangible form, and marked at the time of disclosure as "Confidential" or "Proprietary"; and

33.1.6 any information that is communicated orally or visually and declared to the Receiving Party at the time of disclosure, and by written notice with a statement of the information given to the Receiving Party within ten (10) days after disclosure, to be "Confidential" or "Proprietary."

Notwithstanding any other provision of this Agreement, a Party shall have the right to refuse to accept receipt of information that the other Party has identified as Confidential Information pursuant to Sections 33.1.5 and 33.1.6.

33.2 Except as otherwise provided in this Agreement, the Receiving Party shall:

33.2.1 use the Confidential Information received from the Disclosing Party only in performance of this Agreement; and

33.2.2 using the same degree of care that it uses with similar confidential information of its own (but in no case a degree of care that is less than commercially reasonable), hold Confidential Information received from the Disclosing Party in confidence and restrict disclosure of the Confidential Information solely to those of the Receiving Party's Affiliates (for purposes of this Section 33, Affiliates shall include Verizon Wireless Entities) and the directors, officers, employees, agents and contractors of the Receiving Party and the Receiving Party's Affiliates, that have a need to receive such Confidential Information in order to perform the Receiving Party's obligations under this Agreement. The Receiving

Party's Affiliates and the directors, officers, employees, agents and contractors of the Receiving Party and the Receiving Party's Affiliates, shall be required by the Receiving Party to comply with the provisions of this Section 33 in the same manner as the Receiving Party. The Receiving Party shall be liable for any failure of the Receiving Party's Affiliates or the directors, officers, employees, agents or contractors of the Receiving Party or the Receiving Party's Affiliates, to comply with the provisions of this Section 33.

- 33.3 The Receiving Party shall return or destroy all Confidential Information received from the Disclosing Party, including any copies made by the Receiving Party, within thirty (30) days after a written request by the Disclosing Party is delivered to the Receiving Party, except for (a) Confidential Information that the Receiving Party reasonably requires to perform its obligations under this Agreement, and (b) one copy for archival purposes only.
- 33.4 Unless otherwise agreed, the obligations of Sections 33.2 do not apply to information that:
- 33.4.1 was, at the time of receipt, already in the possession of or known to the Receiving Party free of any obligation of confidentiality and restriction on use;
  - 33.4.2 is or becomes publicly available or known through no wrongful act of the Receiving Party, the Receiving Party's Affiliates, or the directors, officers, employees, agents or contractors of the Receiving Party or the Receiving Party's Affiliates;
  - 33.4.3 is rightfully received from a third person having no direct or indirect obligation of confidentiality or restriction on use to the Disclosing Party with respect to such information;
  - 33.4.4 is independently developed by the Receiving Party;
  - 33.4.5 is approved for disclosure or use by written authorization of the Disclosing Party (including, but not limited to, in this Agreement); or
  - 33.4.6 is required to be disclosed by the Receiving Party pursuant to Applicable Law, provided that the Receiving Party shall have made commercially reasonable efforts to give adequate notice of the requirement to the Disclosing Party in order to enable the Disclosing Party to seek protective arrangements.
- 33.5 Notwithstanding the provisions of Sections 33.1 through 33.4, the Receiving Party may use and disclose Confidential Information received from the Disclosing Party to the extent necessary to enforce the Receiving Party's rights under this Agreement or Applicable Law. In making any such disclosure, the Receiving Party shall make reasonable efforts to preserve the confidentiality and restrict the use of the Confidential Information while it is in the possession of any person to whom it is disclosed, including, but not limited to, by requesting any governmental entity to whom the Confidential Information is disclosed to treat it as confidential and restrict its use to purposes related to the proceeding pending before it.

- 33.6 The Disclosing Party shall retain all of the Disclosing Party's right, title and interest in any Confidential Information disclosed by the Disclosing Party to the Receiving Party. Except as otherwise expressly provided in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not limited to, under any patent, trademark or copyright), nor is any such license to be implied solely by virtue of the disclosure of Confidential Information.
- 33.7 The provisions of this Section 33 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to the use, or protection of the confidentiality of, CPNI provided by Applicable Law.
- 33.8 Each Party's obligations under this Section 33 shall survive expiration, cancellation or termination of this Agreement.

#### 34. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement through their authorized representatives on the date or dates below to be effective when executed by both Parties.

CARRIER

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

VERIZON WIRELESS  
(Continued on next page)

Allentown SMSA Limited Partnership d/b/a Verizon Wireless  
     By Bell Atlantic Mobile Systems of Allentown, Inc., Its General Partner  
 Anderson CellTelCo d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Athens Cellular, Inc. d/b/a Verizon Wireless  
 Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Bell Atlantic Mobile of Asheville, Inc. d/b/a Verizon Wireless  
 Bell Atlantic Mobile of Rochester, LP d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Binghamton MSA Limited Partnership d/b/a Verizon Wireless  
     By NYNEX Mobile of New York Limited Partnership, Its General Partner  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Bismarck MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Boise City MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 California RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
     By Pinnacles Cellular, Inc., Its General Partner  
 Cellco Partnership d/b/a Verizon Wireless  
 Cellular Inc. Network Corporation d/b/a Verizon Wireless  
 Chicago 10 MHz LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Chicago SMSA LP d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Colorado 7 – Saguache Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 CommNet Cellular License Holding LLC d/b/a Verizon Wireless  
     By Cellular Inc. Financial Corporation, Its Sole Member  
 CyberTel Cellular Telephone Company d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Dallas MTA, LP d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Des Moines MSA General Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Dubuque MSA Limited Partnership d/b/a Verizon Wireless  
     By Southwestco Wireless, LP, Its General Partner  
     By Southwestco Wireless, Inc., Its General Partner  
 Duluth MSA Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Minnesota, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless  
 Fayetteville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Fresno MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Gadsden CellTelCo Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Gila River Cellular General Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its Managing General Partner

Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Grays Harbor-Mason Cellular Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 GTE Mobilnet of Florence, Alabama Incorporated d/b/a Verizon Wireless  
 GTE Mobilnet of Fort Wayne Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Indiana Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Indiana RSA #3 Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Indiana RSA #6 Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Santa Barbara Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless  
     By San Antonio MTA LP, Its General Partner  
     By Verizon Wireless Texas, LLC, Its General Partner  
 GTE Mobilnet of Terre Haute Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Texas RSA #17 Limited Partnership d/b/a Verizon Wireless  
     By San Antonio MTA LP, Its General Partner  
     By Verizon Wireless Texas, LLC, Its General Partner  
 GTE Mobilnet of Texas RSA #21 Limited Partnership d/b/a Verizon Wireless  
     By San Antonio MTA LP, Its General Partner  
     By Verizon Wireless Texas, LLC, Its General Partner  
 GTE Mobilnet of the Southwest LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless  
 Hamilton Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Idaho 6 – Clark Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Idaho RSA No. 1 Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Idaho RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Idaho RSA 3 Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Illinois RSA 1 Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Illinois RSA 6 and 7 Limited Partnership d/b/a Verizon Wireless  
     By Illinois SMSA Limited Partnership, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Illinois SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Indiana RSA #1 Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Indiana RSA 2 Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Iowa 8 – Monona Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent

Iowa RSA 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Iowa RSA 10 General Partnership  
 By Cellco Partnership d/b/a Verizon Wireless, Its Manager

Iowa RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Missouri Valley Cellular, Inc. d/b/a Verizon Wireless  
 By CommNet Cellular, Inc., Its Managing Agent

Modoc RSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Muskegon Cellular Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

NC-2 LLC d/b/a Verizon Wireless

New Hampshire RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

New Mexico RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, its Sole Member

New Mexico RSA 6-I Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Mexico RSA No. 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Par d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York RSA No. 3 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
 By AirTouch North Dakota, LLC, Its General Partner

Northeast Pennsylvania SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Northern New Mexico Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile of New York, LP d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Olympia Cellular Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Omaha Cellular Telephone Company d/b/a Verizon Wireless  
     By AirTouch Nebraska, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless of the East LP, Its General Partner  
     By Verizon Wireless of Georgia LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Oxnard-Ventura-Simi Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 Pennsylvania 3 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania 4 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA 1 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (I) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (II) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsburgh SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsfield Cellular Telephone Company d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Platte River Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Portland Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pueblo Cellular, Inc. d/b/a Verizon Wireless  
 Redding MSA Limited Partnership d/b/a Verizon Wireless  
     By Sacramento Valley Limited Partnership, Its General Partner  
     By AirTouch Cellular, Its General Partner  
 Rockford MSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 RSA 7 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Iowa RSA 7, LLC, Its Managing Partner  
     By Cellco Partnership, Its Sole Member  
 Sacramento Valley Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 San Antonio MTA, L.P. d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 San Isabel Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Sanborn Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Sangre De Cristo Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Seattle SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Sioux City MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner

Smoky Hill Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Southern & Central Wireless, LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Southern Indiana RSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Southwestco Wireless LP d/b/a Verizon Wireless  
     By Southwestco Wireless Inc., Its Managing Partner  
 Spokane MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Springfield Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
         By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Joseph CellTelCo d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Syracuse SMSA Limited Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 The Great Salt Flats Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Topeka Cellular Telephone Company, Inc. d/b/a Verizon Wireless  
 Tuscaloosa Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Upstate Cellular Network d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Utah RSA 6 Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Verizon Wireless (VAW) LLC d/b/a Verizon Wireless  
 Verizon Wireless of the East LP d/b/a Verizon Wireless  
     By Verizon Wireless of Georgia LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Verizon Wireless Personal Communications LP d/b/a Verizon Wireless  
 Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Vermont RSA Limited Partnership d/b/a Verizon Wireless  
     By NYNEX Mobile Limited Partnership 1, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Virginia RSA 5 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Virginia 10 RSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Wasatch Utah RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Washington, DC SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Waterloo MSA Limited Partnership d/b/a Verizon Wireless  
     By Southwestco Wireless LP, Its General Partner  
         By Southwestco Wireless Inc., Its General Partner



Wyoming 1 – Park Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## LOCAL NUMBER PORTABILITY OPERATIONS AGREEMENT

This Local Number Portability Operations Agreement ("Agreement") is entered into by and between Western Wireless Corporation ("Western") and \_\_\_\_\_ ("\_\_\_\_\_"). Western and \_\_\_\_\_ are each individually a "Party" and are together the "Parties" to this Agreement.

WHEREAS, the above named Parties wish to enter into an Agreement with each other in compliance with applicable laws and regulations.

WHEREAS, the Parties wish to enter into an Agreement to facilitate the ability of Customers to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement through Local Number Portability.

WHEREAS, the Parties wish to enter into an Agreement to establish practices and procedures to ensure that Customer requests to port numbers are achieved efficiently and with minimal delays.

THEREFORE, the Parties wish to enter into this Agreement on the following terms and conditions:

### 1. DEFINITIONS

Any term not specifically defined here shall be given the meaning provided for in FCC Orders governing LNP.

- 1.1. Act: Means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended and interpreted in the rules and regulations of the FCC.
- 1.2. Affiliate: Means any entity, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with a Party hereto.
- 1.3. Agreement: Means this Local Number Portability Operations Agreement, including all appendices attached hereto, future amendments, modifications and supplements made in accordance herewith.
- 1.4. CORBA is an acronym for: Common Object Request Broker Architecture.
- 1.5. Competitive Local Exchange Carrier ("CLEC") is defined in the Act.
- 1.6. Commercial Mobile Radio Service ("CMRS") is as defined in the Act.
- 1.7. Customer: An active end user and subscriber of the OSP who desires to receive service from the NSP using the same telephone number that is associated with the service(s) the subscriber receives from the OSP.
- 1.8. Customer Service Records ("CSR") are the records that contain the identity, service address, rate plan or plans, and other information on the Customer.

- 1.9. Electronic Data Interface ("EDI") is a data interface for exchange of information between providers.
- 1.10. Federal Communications Commission ("FCC"): Means the regulatory, governing body directing the activities associated with this Agreement.
- 1.11. Inter-carrier Communications Process ("ICP"): The communication process between the OSP and the NSP, which validates the customer information and initiates and completes the port request. The ICP includes the exchange of the LSR/LR.
- 1.12. Local Exchange Routing Guide ("LERG") is a Traffic and Routing Administration maintained industry table identifying switches with their assigned telephone numbers.
- 1.13. Local Number Portability ("LNP"): The ability of a Customer to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement pursuant to FCC Rules.
- 1.14. Local Response ("LR"): A form for responding to an LSR. A sample LR and descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG") of the Ordering and Billing Forum..
- 1.15. Local Service Request ("LSR"): Forms containing information about a Customer who desires to port a telephone number to the NSP. A sample LSR and descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG") of the Ordering and Billing Forum.
- 1.16. Location Routing Number ("LRN"): Ten-digit number assigned to a switch or point of interconnection used for routing calls.
- 1.17. Metropolitan Statistical Areas ("MSA"): An MSA denotes a large urban population market as designated by the U.S. government.
- 1.18. New Service Provider ("NSP"): The new provider that will provide service to Customer and to whom Customer ports its telephone number.
- 1.19. Number Portability Administration Center ("NPAC"): A neutral third party center that processes porting information from and disseminates that information to telecommunications carriers. The NPAC processes the NSP subscriber port request and downloads the LRN associated with the subscriber ported telephone number to local number portability databases.
- 1.20. Old Service Provider ("OSP"): The provider providing service to the customer at the time the customer requests porting of the MDN.
- 1.21. Rate Center: Geographic areas that utilize a common geographical point of reference for distance measurements, called a rating-point, which is defined by Vertical and Horizontal Coordinates.

- 1.22. Working Telephone Number: A telephone number that is assigned to a Customer that can originate and terminate telephone calls through the Public Switched Telephone Network.

## 2. PURPOSE OF AGREEMENT

The parties desire to enter into this Agreement consistent with all applicable FCC rules and regulations.

## 3. TERM

This Agreement shall become effective May 24, 2004 and, except as otherwise provided in this Agreement, shall continue in full force and effect until either Party terminates the Agreement by providing notice of termination in writing to the other Party at least sixty (60) in advance of such termination pursuant to the Notice provisions set forth in Section 19 of this Agreement. Upon termination, the Parties shall continue to provide LNP if required by applicable laws and regulations.

## 4. NUMBER PORTING

### 4.1. Scope

The Parties shall provide LNP and port Working Telephone Numbers on a reciprocal basis pursuant to this Agreement. The Parties will open all switches and associated NPA-NXXs to support number portability in the serving areas identified in Appendix A.

NXX codes shall be portable in accordance with FCC Rules and Regulations except those permitted to be designated non-portable by the same FCC Rules and Regulations.

### 4.2. Procedures for Providing LNP

- 4.2.1. The Parties shall ensure that all switches, whether currently owned or hereafter acquired, are upgraded to facilitate LNP to the extent required by FCC Rules and Regulations. The Parties shall, as required by FCC orders, disclose upon request any technical limitations that would prevent LNP in any connecting office.
- 4.2.2. The Parties will follow the LNP provisioning process flow and porting intervals recommended by the North American Numbering Council (NANC) for Inter-Service Provider LNP between wireline and wireless carriers. This includes the recommendations of the Local Number Portability Administration Work Group to adopt the Inter-Service Provider LNP Operations Flows and the same porting intervals until the FCC provides further confirmation or modification of these processes.
- 4.2.3. The Parties will follow the LNP ordering procedures established at the OBF for porting of Assigned Telephone numbers.
- 4.2.4. When a telephone number is ported out of the OSP's network, the OSP will, if applicable, remove all line based features and calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if applicable, is the responsibility of the NSP or the Customer.

- 4.2.5. When a telephone number is ported out of the OSP's network, the OSP will follow the 911 Guidelines recommended by the National Emergency Number Association ("NENA") with regard to emergency services databases.
- 4.2.6. When an OSP ports Customer telephone number(s) to the NSP, the OSP shall implement the ten-digit trigger feature where it is available. When the OSP receives the port request, the unconditional trigger shall be applied to the Customer's telephone number prior to the due date and time identified in the port request. When the unconditional trigger is not available, the Parties shall use standard NPAC concurrence procedures.
- 4.2.7. LNP Software is required to be in place and tested prior to any order submission.
- 4.2.8. Reserved numbers may be ported if there is at least one Working Telephone Number in the group.

## 5. LIMITATIONS OF SERVICE

A telephone number can only be ported to a NSP if the Rate Center associated with the NPA-NXX is within the NSP's license area or authorized service area. A telephone number can be ported from a wireline to CMRS Party if the Rate Center associated with the NPA-NXX is within the CMRS provider's license area. A telephone number can be ported from a CMRS to a wireline Party if the Rate Center associated with the NPA-NXX is within the wireline service provider's authorized service area. The Parties recognize that certain NXXs may be non-portable, including those NXXs assigned for internal testing and official use, and any NXXs required to be designated as non-portable by the rules and regulations of the FCC.

## 6. SERVICE DESCRIPTION

Ordering: Both Parties agree to follow the provisions set forth in Appendix D for the exchange of information required to port a customer and the processing of LNP orders.

- 6.1 Pre-order: The Parties agree that a NSP must obtain the affirmative consent of a Customer to authorize the porting of any Working Telephone Number(s) and the disclosure of such Customer's information between the Parties as necessary to facilitate LNP processing.
- 6.2 After receiving a request from a Customer to port telephone number(s), the New Service Provider may request the CSR of the Customer from the Old Service Provider.
- 6.3 Order: The Parties agree that a NSP must submit an order for LNP to the OSP using a 'Local Service Request' (LSR).
- 6.4 All numbers on a LSR that are requested to be ported must reside within the same LRN within an NPAC region. If a customer is requesting to port numbers from multiple LRNs within an NPAC region, a separate LSR must be submitted for all numbers in each LRN within an NPAC region.
- 6.5 Type 1 Number Porting: The Parties agree to migrate all telephone numbers assigned to Type 1 trunks to the Western Wireless mobile switching center utilizing the LNP process. The entire

block(s) of numbers associated with each Type 1 trunk will be incorporated as part of a single LSR. The Parties will work together to accomplish the Type 1 number porting within 15 days of the issuance date of the LSR.

#### Port Processing:

- 6.6 After the NSP sends a LSR to the OSP, the OSP shall determine whether Customer's information in the LSR is correct and whether the port can be completed by the requested date and time. The minimum due date and time (DD/T) intervals for all submitted LSRs is identified in Appendix D. The OSP shall, respond within the Port Request Processing intervals identified in Appendix D and shall send a response to the NSP notifying the NSP whether it can or cannot complete the port by the time requested by the NSP. If the information in the LSR is inaccurate or the port cannot be completed in the requested time, the OSP's response message shall notify the NSP that it denies the request and provide the appropriate reason codes from those listed in the Wireless Intercarrier Communications Interface Specification for Number Portability ("WICIS"), Version 2.0. All reason codes and reason code details should be associated with the respective telephone numbers in error, as applicable. The OSP should conduct a full review of each request, identifying all telephone numbers with suspected errors prior to returning an invalid response. Both parties agree to work expeditiously to resolve incorrect or conflicting information. The NSP can then make the necessary changes and send the LSR back to the OSP for verification. This process shall continue until the OSP accepts the port request and sends a confirmation to the NSP or until the OSP determines that it is incapable of completing the port request and populates the remarks field in the port request indicating this determination to the NSP. If the OSP determines that it is incapable of completing the port or if the OSP fails to respond to the WPR sent by the NSP, the NSP may contact the OSP's Porting Administration Group or Trouble Reporting Contact to ascertain the problem and determine if a remedy is possible and/or whether the NPAC process can begin.
- 6.7 The NSP shall not generate a Subscription Version Create (SV-Create) until it receives a Confirmation from the OSP indicating that the porting process may continue.
- 6.8 NPAC Process: After the OSP has confirmed that it can complete a requested port, the OSP and the NSP shall send an SV-Create regarding the port to the regional NPAC covering the Rate Center associated with the ported number's NPA-NXX. Under no circumstances is the SV-Create to be sent to the NPAC prior to receipt of a valid confirmation response unless otherwise agreed to by the Parties to this Agreement. The SV-Create must be sent for all telephone numbers on the WPR and the date and time must match the Due Date and Time on the LSR sent by the OSP. The Parties shall also update translations in their Central Office(s) from which a telephone number has been ported prior to the date on which the LERG changes become effective so that calls to the ported telephone number may be redirected to the switch of the NSP via route indexing. Mutual NPAC concurrence is required prior to completion of the service request.

After the OSP has confirmed that it can complete a requested port, the Parties shall make all reasonable efforts to complete a request within the time specified in Appendix D, or by the NSP's requested date, whichever is later. Request due date and time should be set to allow for at least the minimum processing time allowed under the guidelines. If the OSP fails to complete a

port by the time specified herein, the NSP may place the telephone number in Conflict with NPAC. If the port has not been completed during the Conflict timer parameter, the NSP can take the port out of Conflict and Activate the telephone number(s).

#### Deactivation:

- 6.9 Deactivation: With respect to all services and features related to the Customer ported telephone number, the OSP shall deactivate them within its Network and Billing Systems by or on the requested due date specified in the associated port request.

#### Return of Numbers:

- 6.10 All Working Telephone Numbers that have been ported will be released when the NSP ceases providing service to those ported numbers. Release of telephone numbers will be based on the procedures set forth in the FRS and IIS of the Number Portability Administration Center. Each telephone number will be released only after the number has been aged by the NSP for 90 days from the day that service to the telephone number was terminated. An aging interval includes any announcement treatment period, as well as blank telephone number intercept period. For disconnected numbers, the NSP will comply with the NPAC disconnect and snapback process as described in applicable publications of the North American Numbering Council.

### 7. TROUBLE, MAINTENANCE, AND REPAIR

- 7.1 Operation Support Systems: Both Parties agree to work expeditiously to resolve any issues associated with porting a customer between the two Parties. Before either Party reports a trouble condition, that Party must first use reasonable efforts to isolate the trouble to the other Party's actions or facilities. In order to facilitate trouble reporting and resolution, the Parties shall provide the trouble reporting contact information, per Appendix C. It is the responsibility of each Party to maintain the accuracy of their contact information and to notify the other Party of changes or modifications.
- 7.2 Trouble: Both Parties shall use commercially reasonable efforts to resolve and/or isolate trouble within 24 hours for single customer affecting issues. Both Parties shall use commercially reasonable efforts to resolve and/or isolate trouble within 6 hours for multiple customer affecting issues.
- 7.3 Network Maintenance: Each Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.
- 7.4 Modifications: Each Party will proactively test their new switch features and service offerings to ensure there are no problems.

**9. PRICING/COSTS**

The Parties to this Agreement are responsible for their own costs associated with this Agreement or the porting process, unless otherwise specified in this Agreement.

**10. TESTING**

- 10.1 Each Party shall designate a single point of contact (SPOC) to schedule and perform required tests. These tests shall be performed during a mutually agreed time frame and must conform to industry portability testing and implementation criteria in force in the NPAC region.
- 10.2 Both Parties shall be certified by the regional NPAC prior to scheduling inter-company testing of LNP.
- 10.3 Both Parties shall exchange information identified in Appendix B prior to the commencement of testing.

**11. FRAUD**

The Parties agree to cooperate in good faith with each other to investigate, minimize, and take corrective action in cases of fraud related to number portability.

**12. USE OF TRADEMARKS**

The Parties agree that they will not use the name, service marks or trademarks of the other Party or any of its affiliated companies in any manner whatsoever, without such Party's specific written consent. Neither Party is licensed hereunder to conduct business under any logo, trademark, service or trade name (or any derivative thereof) of the other Party. Neither Party shall issue any press release or other publicity concerning this Agreement without the prior consent of the other Party.

**13. COMPLIANCE WITH LAWS**

The Parties shall comply with all federal, state and local laws applicable to their performance hereunder.

**14. FORCE MAJEURE**

Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by reason of acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, or any other circumstances beyond the reasonable control and not involving any fault or negligence of the Delayed Party ("Condition"). If any such Condition occurs, the Party delayed or unable to perform ("Delayed Party"), upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis during the continuance of such Condition (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period); provided, however, that the Party so affected



shall use its best reasonable efforts to avoid or remove such Condition and both Parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease.

**15. ASSIGNMENT**

This Agreement may not be assigned or transferred without the prior written consent of the other Party, which consent may not be unreasonably withheld. Notwithstanding the prior sentence, no prior written consent shall be required for a Party to assign or transfer this Agreement to any subsidiary, Affiliate, parent or successor in interest, or to any entity which acquires all or substantially all of its assets and agrees to be bound by the terms and conditions of this Agreement, provided however, that the assigning Party shall notify the other Party of such assignment or transfer as soon as reasonably practical.

**16. BINDING EFFECT**

This Agreement shall inure to the benefit of, and shall be binding upon the Parties hereto and their respective successors and permitted assigns .

**17. INDEMNIFICATION**

17.1 Each Party shall indemnify and hold harmless the other from any liabilities, claims, or demands, including costs, expenses and reasonable attorney's fees ("Claims") made by third parties resulting from the negligence and/or willful misconduct of a Party, its employees and agents in the performance of this Agreement.

17.2 A Party seeking to be indemnified hereunder will provide the other Party with prompt, written notice of any Claim covered by this indemnification and will cooperate appropriately with the indemnifying Party in the defense thereof. The indemnifying Party shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of each indemnified Party, such consent not to be unreasonably withheld or delayed.

**18. RELATIONSHIP OF THE PARTIES**

Neither Party undertakes by this Agreement or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. Nothing contained in this Agreement is intended to give rise to an employment relationship, partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of employers, partners or joint venturers.

**19. NOTICES**

Unless otherwise specified in this Agreement, all notices required under this Agreement shall be given in writing. All notices shall be given by personal delivery, overnight courier, confirmed facsimile or

certified mail, return receipt requested to the person(s) specified below or to such other addresses as a Party may designate by written notice to the other Party. If sent by overnight courier or by the United States Postal Service mail, such notices shall be deemed received on the earlier of actual receipt or five (5) business days following deposit.

Notices shall be sent to:

For Western Wireless Corporation:

For Carrier B:

Regulatory Department  
3650 131<sup>st</sup> Avenue, S.E., Suite 400  
Bellevue, Washington 98006

(Insert Name & Address)

Email: Regulatory@wwireless.com

Email:

Fax: 425-586-8118

Fax:

## 20. WAIVER

The waiver or failure of either Party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.

## 21. SEVERABILITY

This Agreement shall be subject to all applicable federal, state and local laws, court orders, agency orders, rules and regulations of all governmental agencies and authorities. In the event this Agreement, any of the provisions of this Agreement, or any of the activities under this Agreement, are determined to be inconsistent with or contrary to any applicable federal, state or local laws, court orders, agency orders, rules, or regulations, the latter shall control and any inconsistent term or condition of this Agreement shall terminate without any additional liability attaching to either Party. If the Agreement lawfully can be continued, it is commercially practicable to do so, and the intent of the Parties can be effectuated without the stricken provision, then the Agreement shall continue as amended and the Parties agree to negotiate any such necessary amendments. If the Agreement lawfully can be continued, it is commercially practicable to do so, and the intent of the Parties can be effectuated, but only by further modification of the Agreement, the Parties may so modify the Agreement by executing an appropriate amendment to this Agreement; if the Parties choose not to so modify this Agreement, then this Agreement shall terminate without any additional liability attaching to either Party and further performance shall be excused.

## 22. Limitation of Liability

Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for indirect, incidental, consequential, special damages, including (without

limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

## 23. ESCALATION PROCEDURES

The Parties shall agree to a single point of contact in each company who shall be notified in the event a Party encounters a post-portal issue(s) or a case of suspected breach of this agreement. This action should precede actions by a Party under Section 24 Dispute Resolution. Once a Party institutes Escalation Procedures under this Section, all Parties shall refrain for three (3) days from taking any action under Section 24. The points of contact for each Party are as follows:

For Carrier A:

(Insert Name & Address)

For Carrier B:

(Insert Name & Address)

## 24. DISPUTE RESOLUTION

### 24.1 General Provisions

- a. Without limitation of the Parties' right to bring a dispute otherwise within the jurisdiction of a regulatory agency before such agency or unless otherwise required by law, the Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, in the event of a dispute, claim or controversy arising under this Agreement ("Dispute"), the affected Party shall resolve the Dispute as provided herein.
- b. At the written request of a Party to invoke the procedures hereunder, each Party shall appoint within five (5) days of the request a knowledgeable, responsible representative to meet and negotiate in good faith to resolve a Dispute. Parties may be represented by counsel to assist in and/or conduct such negotiations. The discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery and production, which shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise admissible, be admitted in evidence in the arbitration or lawsuit.
- c. If the foregoing negotiations do not resolve the Dispute within sixty (60) days of the initial written request, either Party may serve upon the other Party by certified mail a written demand that the Dispute be arbitrated, specifying in reasonable detail the nature of the Dispute to be submitted to arbitration in accordance with Section 23.2, below. The demand, effective upon receipt, shall be made within a reasonable time after the Dispute, has arisen. In no event shall

the demand for arbitration be made more than one year after the underlying cause of action arises.

- d. The arbitration hearing shall commence within forty-five days after the demand for arbitration. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings.
- e. Notwithstanding the Dispute Resolution provisions set forth in Section 23, the provisions in this Agreement addressing Severability as set forth in Section 21 and the provisions allowing for termination as set forth in Section 1.2 take precedence. If the Agreement is terminated any initial negotiations or arbitration in progress shall cease and become moot.

#### 24.2 ARBITRATION.

- a. Agreement to Arbitrate Disputes. Except as set forth in Section 23.1 above, the Parties agree that in the event of any Dispute, such Dispute shall be resolved exclusively by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof. The Federal Arbitration Act, 9 U.S.C. Secs. 1-15, not state law, shall govern the arbitrability of all Disputes.
- b. Selection of Arbitrator. The Parties further agree that they will ask the American Arbitration Association administrator in the area in which LNP is being provided, to provide to each Party to the Dispute a list of five (5) proposed arbitrators qualified to decide the controversy and who are experienced in telecommunications law. Within seven (7) days of receipt of this list, each Party to the Dispute will cross off names of proposed arbitrators the Party does not wish to use, leaving at least two candidates on the list, will number the remaining names in the order of preference, and will return the annotated list to the administrator. The administrator will select an arbitrator from the modified lists of preferences. The Parties will accept the administrator's selection of the Arbitrator.
- c. Discovery. Discovery shall not be permitted in such arbitration except as allowed by the rules of AAA or such other arbitration agency selected by the Parties pursuant to Section 23.2(a), or as otherwise agreed to by the Parties.
- d. Arbitration Award or Decision. The Parties agree that the arbitrator shall have no power or authority to make awards or issue orders of any kind except as permitted by this Agreement and substantive law, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. The arbitrator's decision shall follow the plain meaning of this Agreement and the relevant documents. The arbitrator's award shall be final and binding and may be enforced in any court of competent jurisdiction. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator.

#### 25. ARTICLE HEADINGS

The headings of the Articles are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

26. CHOICE OF LAW AND JURISDICTION

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the state in which LNP is being provided, without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction.

27. AMENDMENTS

Amendments, modifications and supplements to this Agreement are allowed provided: (a) all such amendments, modifications and supplements shall be in writing signed by authorized representatives of both Parties, and (b) all such amendments, modifications and supplements shall by reference incorporate this Agreement in its entirety and identify the specific sections or paragraphs contained herein which are amended, modified or supplemented, and (c) all such amendments, modifications and supplements shall not be construed to adversely affect vested rights or causes of action which have accrued prior to the Effective Date of such amendment, modification or supplement.

28. ENTIRE AGREEMENT

This Agreement together with its exhibits constitutes the entire agreement between the Parties and cancels all contemporaneous or prior agreements, whether written or oral, with respect to the subject matter of this Agreement. No modifications shall be made to this Agreement unless in writing and signed by authorized representatives of the Parties.

29. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement through their authorized representatives.

WESTERN WIRELESS CORPORATION      CARRIER B

\_\_\_\_\_  
(Signature of Officer or Authorized Agent)

\_\_\_\_\_  
(Signature of Officer or Authorized Agent)

\_\_\_\_\_  
(Printed Name of Officer or Authorized Agent)

\_\_\_\_\_  
(Printed Name of Officer or Authorized Agent)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

## **Appendix A - Agreement Serving Areas**

## Exhibit R3

# Trading Partner Profile for Porting between Sprint and <Trading Partner>

C O N T A C T	Item	Sprint	<Trading Partner>
	Effective Date		
	Primary contact name	Porting Center	
	Contact description	Porting Center	
	Phone number #1	Tbd	
	Phone number #2		
	FAX number	813-273-3403 (will change 3Q03)	
	Email address		
	Other		
	Note: The primary contact is also assumed to be the first point of contact for profile changes.		
	Secondary contact name	Network Operations Center	
	Contact description	Network Operations Center	
	Phone number #1	800-892-2888	
	Phone number #2	813-273-3440	
	FAX number	813-273-3570	
	Email address	Netops@tsiconnections.com	
	Other	Hotline@tsiconnections.com	

O P E R A T I O N S	Item	Sprint	<Trading Partner>
	... Common ...		
	Operating Company No. (OCN)	See following list of OCNs	
	Administrative OCN	6664	
	Wireless or Wireline	Wireless or Wireline	
	Holiday Days (mm/dd/yy)	Standard NPAC holiday schedule	
	Holiday time begin (hh:mm)	17:00 EST on business day before	
	Holiday time end (hh:mm)	8:00 EST on business day after	
	... for Test ...		
	Service Provider ID (SPID)	Primary: 9990, Secondary: 7778	
	LSMS SPID	7777	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WICIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	Monday through Friday	
	Business day begin (hh:mm)	7:00 CST	
	Business day end (hh:mm)	16:00 CST	
	... for Production ...		
	Service Provider ID (SPID)	6664	
	LSMS SPID	0661	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WICIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	24x7 except NPAC maintenance	
	Business day begin (hh:mm)	hours	
	Business day end (hh:mm)		



C O R B A	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A	Current, Telcordia SMG 4.0 & 4.1, Future = SMG 4.2 (~Sep, 2003)	
	ICP Package/Application ("send to")	SMG 4.0/4.2: 205.174.182.182 SMG 4.1: 205.174.188.227	
	ICP Physical Server ("receive from")	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229	
	Failover ICP Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228	
	SOA Application	SMG 4.0/4.2: 205.174.182.181 SMG 4.1: 205.174.188.226	
	SOA Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228	
	Failover SOA Server	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229	
	Application Port Information	29990 (setup as "2" + SPID)	
	Naming Service / IOR	Static IP (or N/A)	
	DLCI	N/A	
	LDAP Provider	N/A	
	Security Requirements	N/A	
	Firewall Requirements	Allow TCP and UDP traffic	
	SSL Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A (Currently at 2.0 ??)	
	Implementation OMG standard compliant?	Yes	
	... for Test OMG CORBA Standards Supported ...		
	Vendor	Product Name/Version	OMG CORBA Version
	Borland	CORBA	IIOP Version
	... for Production ...		
	Porting Method: Primary, Secondary, N/A	Current, Production = SMG 4.0 Future = SMG 4.1 (mid-July) SMG 4.2 (~October, 2003)	
	ICP Package/Application ("send to")	SMG 4.0: 205.174.185.139	
	ICP Physical Server ("receive from")	SMG 4.0: 205.174.185.237	
	Failover ICP Server	SMG 4.0: 205.174.185.236	
	SOA Application	SMG 4.0: 205.174.185.138	
	SOA Server	SMG 4.0: 205.174.185.236	
	Failover SOA Server	SMG 4.0: 205.174.185.237	
	Application Port Information	29990 (setup as "2" + SPID)	
	Naming Service / IOR	Static IP (or N/A)	
	DLCI	N/A	
	LDAP Provider	N/A	
	Security Requirements	N/A	
	Security Requirements	N/A	
	Firewall Requirements	Allow TCP and UDP traffic	

	SSI Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A (Currently at 2.0 ??)	
	Implementation OMG standard compliant?	Yes	
	... for Test OMG CORBA Standards Supported ...		
	Vendor	Product Name/Version	OMG CORBA Version
	Borland	CORBA	IIOP Version

F A X	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	813-273-3403	
	Backup FAX number	Tbd	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	Tbd	
	Backup FAX number	Tbd	

E D I	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	

O T H E R	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Queue Name, Queue Manager, and a channel	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		

Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Que Name, Que Manager, and a channel	
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The parties agree that information contained in the Trading Partner Profile is operational in nature and subject to change. The parties agree to make every effort to give the other party 30 days notice of any changes to its information.

**Sprint OCNs**

OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:
4058	4060	4061	4064	4065	4066	4098	4099
6032	6664	6982	8440	8441	8442	8443	8444
8445	8446	8447	8448	8449	8450	8451	8452
8453	8454	8455	8456	8457	8458	8459	8460
8461	8462	8463	8564	8566	8567	8568	8570
8571	8572	8574	8575				

## **Information Required for Logging Trouble Tickets**

### **Sprint PCS:**

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

### **Trading Partner:**

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

## **Porting Validation Standards**

### **Information Required for Port Validation:**

#### **Sprint PCS:**

Last Name or Business Name

Zip Code

SSN or Tax ID or Acct. No.

MDN

If corporate liable - a password or pin number.

#### **Trading Partner:**

## **Porting Business Rules** **Exhibit E**

### **Sprint PCS:**

- Complex Ports – Sprint PCS will accept only single line ports. Multiline ports must be submitted as multiple single line ports.
- Resellers – Sprint PCS will accept port requests on behalf of our resellers, however all validation is based on the resellers' processes.

### **Trading Partner:**

- TBD

## **WIRELINE TRADING PARTNER PROFILE**

### **Table of Contents**

**Part A – Trading Partner Profile**

**Part B – General Contact Information and Trouble Reporting Contact Information**

**Part C – Trouble Ticket Detail**

**Part D – Porting Validation Standards**

**Part E – Affiliate Lists**

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Part A  
Trading Partner Profile

For Verizon Wireless:

Company Name – Verizon Wireless (Verizon Wireless Affiliates are identified in Part E hereto)  
Administrative OCN – G056

OCN LIST FOR VERIZON  
WIRELESS

STATE	OCN	STATE	OCN
AL	6804	MT	6564
AR	6805	NE	5807
AZ	6572	NC	6324
CA	6006	ND	6568
CO	6567	NH	6386
CT	6388	NV	6458
DC	6402	NJ	6391
DE	6393	NY	6959
FL	6502	NM	6573
GA	6540	OH	6025
HI	6516	OK	5813
IA	6570	OR	6523
ID	6565	PA	6392
IL	6333	RI	6389
IN	6725	SC	6398
KS	6532	SD	6569
KY	6500	TN	6673
LA	6505	TX	6506
ME	6386	UT	6571
MA	6387	VA	6827
MD	6395	VT	6390
MS	6396	WV	6394
MO	5814	WA	6246
MN	5816	WI	6508
MI	6003	WY	6566

Verizon Wireless Service Order Activation System SPID – 6006  
 Verizon Wireless Local Service Management System SPID – 0572, 6827

Address – Port Center  
 300 River Rock Blvd.  
 Murfreesboro, TN 37128  
 Country – USA

For Wireline Carrier B:  
 Company Name: [Wireline Carrier B to provide list of Abbrevs on Part 0]  
 Wireline Carrier B to insert OCN with associated states here and to complete items in the table below:  
 Address: [insert address]  
 City: [insert address]  
 State: [insert address]  
 Zip: [insert address]

CONTACT	Item	Verizon Wireless	Wireline Carrier B
	Effective Date		
	Note: The above contact is also assumed to be the first point of contact for profile changes.		
	Contact name for Wireline Carrier	Verizon Wireless Port Center	
	Contact description	Port Center - General Information	
	Phone number	300-488-2002 (not available until 11/24/03)	

OPERATIONAL	Item	Verizon Wireless	Wireline Carrier B
	... Common information for testing and production environments ...		
	Administrative OCN	G056	
	Administrative Authorized Exchange Carrier Name (if applicable)	EBAW	
	Holiday Days (List Days)	N/A	
	Holiday time begin (hh:mm)	N/A	
	Holiday time end (hh:mm)	N/A	
... for Testing ...			

	Service Provider SOA ID (SPID)	6006	
	LSMS SPID	0572, 6827	
	WPR / LSR Version ID	Preference to latest industry-supported version. WPR is for WLS-WLN porting, LSR is for WLN-WLS.	
	WPRR / FOC Version ID	Preference to latest industry-supported version.	
	Time Zone (PST, MST, CST, EST)	Coordinated per Time Zone, per contact information in Part B.	
	Business days (Sun, Mon, etc.)	Testing to be coordinated per contact information in Part B	
	Business day begin (hh:mm)	Testing to be coordinated per contact information in Part B	
	Business day end (hh:mm)	Testing to be coordinated per contact information in Part B	
... for Production ...			
	Service Provider SOA ID (Verizon Wireless SPID)	6006	
	LSMS SPID	0572, 6827	
	WPR / LSR Version ID	LSOG (most current version) WPR is for WLS-WLN porting, LSR is for WLN-WLS.	
	WPRR / FOC Version ID	LSOG (most current version)	
	Time Zone (PST, MST, CST, EST)	24x7x365	
	Business days (Sun, Mon, etc.)	24x7x365	
	Business day begin (hh:mm)		
	Business day end (hh:mm)		

C	Item	Verizon Wireless	Wireline Carrier B
O	... for Testing ...		
R	Porting Method: Primary,	Current, Test Env = Telcordia SMG 4.2.0.50 (WICIS 2.x)	
B	Secondary, N/A		
A	ICP Package/Application ("send to")	SMG 4.2: 205.174.188.227	
	ICP Physical Server ("receive from")	SMG 4.2: 205.174.188.229	
	Failover ICP Server	SMG 4.2: 205.174.188.228	
	SOA Application	SMG 4.2: 205.174.188.226	



SOA Server	SMG 4.2: 205.174.188.229	
Failover SOA Server	SMG 4.2: 205.174.188.229	
Application Port Information	Test Env 2 = 26233	
Naming Service / IOR	Static IP (or N/A)	
DLCI (Frame Relay usage)	N/A	
LDAP Provider	N/A	
Security Requirements	N/A	
Firewall Requirements	Allow TCP and UDP traffic	
SSL Requirements	N/A	
Proprietary Requirements	N/A	
Service IDL version	N/A	
Implementation OMG standard compliant?	Yes	
... for Testing OMG CORBA Standards Supported ...		
Verizon Wireless		Wireline Carrier B
Vendor	Borland	Vendor
Verizon Wireless Product Name/Version	CORBA	Wireline Product Name/Version
OMG CORBA Version	Corba IDL 2.1	OMG CORBA Version
IIOP Version		
... for Production ...		
Porting Method: Primary, Secondary, N/A	Current Production = SMG 4.2	
ICP Package/Application ("send to")	SMG 4.2: 205.140.9.27 205.140.9.29	
ICP Physical Server ("receive from")	SMG 4.2: 205.140.9.17 205.140.9.19	
Failover ICP Server	SMG 4.2: 205.140.9.16 205.140.9.18	
SOA Application	SMG 4.2: 205.140.9.26 205.140.9.28	
SOA Server	SMG 4.2: 205.140.9.16 205.140.9.18	
Failover SOA Server	SMG 4.2: 205.140.9.17 205.140.9.19	
Application Port Information	26232 (setup as "2" + SPID)	
Naming Service / IOR	Static IP (or N/A)	
DLCI (Frame Relay usage)	N/A	
LDAP Provider	N/A	
Security Requirements	N/A	
Security Requirements	N/A	

	Firewall Requirements	Allow TCP and UDP traffic	
	SSL Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A	
	Implementation OMG standard compliant?	Yes	
	... for Production OMG CORBA Standards Supported ...		
	Verizon Wireless		Wireline Carrier B
	Vendor	Borland	Vendor
	Verizon Wireless Product Name/Version	CORBA	Wireline Product Name/Version
	OMG CORBA Version	Corba IDL 2.1	OMG CORBA Version

F A X	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, Low Tech Interface, LTI		
	Fax number (machine printed forms)	1-813-209-5983	
	Fax number (hand printed forms)	1-813-209-5982	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number (machine printed forms)	1-813-749-6201	
	FAX number (hand printed forms)	1-813-749-6202	
	NOTE: When responding to one of our port requests, please respond to the "Return Fax Number" located on the port request.		

E D I	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, Low Tech Interface (LTI)		
	Specific EDI Requirements	N/A	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	N/A	

O T H E R	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements		
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements		

The carriers agree that information contained in this Part A is operational in nature and subject to change.

The carriers agree to make every effort to give the other carrier thirty (30) days' notice of any changes to its information pursuant to the General Contact Information set forth in Part A.

The carriers' contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.

**Part B – General Contact Information and  
Trouble Reporting Contact Information**

**For Verizon Wireless:**

**General Contact Information**

**Wireless-Wireline Porting:**

**Verizon Wireless Porting Center**

Hours of Operation: 24 x 7 x 365 (open all holiday's, no exceptions)  
Address: 300 River Rock Blvd.  
Murfreesboro, TN 37128  
Phone: 1-800-488-2002

**Porting Center Carrier Relations**

Contact: Associate Director of Inter-Carrier Relations  
Phone: 1-800-711-9300  
Fax: 1-615-372-2411  
Hours: 8:00am to 5:00pm (Central Time)  
E-mail: [PortCenterICR@GL.VerizonWireless.com](mailto:PortCenterICR@GL.VerizonWireless.com)

**Pre-Launch (Pre-11/24/03) Inter-Carrier Test Scheduling**

Contact: Wireline Inter-Carrier Test Coordinator  
Phone: 1-248-915-3430  
Fax: 1-248-915-3799  
E-mail: [Marie.Moore@VerizonWireless.com](mailto:Marie.Moore@VerizonWireless.com)

**Post-Launch (Post-11/24/03) Inter-Carrier Test Scheduling**

Contact: Inter-Carrier Relations  
Phone: 1-800-711-9300  
Fax: 1-615-372-2411  
E-mail: [PortCenterICR@GL.VerizonWireless.com](mailto:PortCenterICR@GL.VerizonWireless.com)

**Trouble Reporting Contact Information**

Process: The Verizon Wireless Porting Center is the initial interface for all trouble resolution activity associated with porting numbers. The Porting Center will refer issues to the appropriate internal Network or provisioning group for resolution within Verizon Wireless.

**Trouble Area:**

ICP/General Trouble Reporting

Phone: 1-800-711-9300  
Fax: 1-615-372-2425  
E-mail: VZWLNPGeneral@GL.VerizonWireless.com

Disaster Recovery

Contact: Porting Center Resource Manager  
Phone: 1-800-711-9300  
Fax: 1-615-372-2425  
E-mail: PCLNPTNC@GL.VerizonWireless.com

CORBA:

Contact: TSI Hotline  
Phone: 1-800-892-2888  
Fax: 1-813-273-3164  
E-mail: Hotline@tsiconnections.com; Subject: Customer#: WLNP

**For Wireline Carrier B:**

**General Contact Information**

[contact]

Hours of Operation:

Address:

[contact]

Phone: .

Fax:

**Trouble Reporting Contact Information**

**Trouble Area:**

ICP/General Trouble Reporting

Phone:

Fax:

E-mail:

Disaster Recovery

Contact:

Phone:

Fax:

E-mail:

CORBA:

Contact:

Phone:

Fax:

E-mail:

Note: Each carrier shall make available a Porting Administration Group or Trouble Reporting contact on a 24x7x365 basis.

The Trouble Reporting Contacts may be amended from time to time by a carrier upon providing thirty (30) days' written notice to the other at the General Contact Information set forth in this Part A.

**The carriers' contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.**

## **Part C – Trouble Ticket Detail**

### **For Verizon Wireless:**

#### **Information Required For Logging Trouble Tickets\***

The following may be required for trouble reports:

- Carrier Name;
- Reporting Carrier organization;
- SPID and associated OCN(s);
- Point of Contact Name;
- Point of Contact Number;
- Porting Telephone Number/MDN;
- LRN;
- Time and Date of Port;
- Associated Error Codes;
- Description of Problem; and
- Other relevant data.

### **For Wireline Carrier B:**

#### **Information Required For Logging Trouble Tickets\***

The following is proposed information for trouble reports:

- Carrier Name;
- Reporting Carrier organization;
- SPID and associated OCN(s);
- Point of Contact Name;
- Point of Contact Number;
- Porting Telephone Number/MDN;
- LRN;
- Time and Date of Port;
- Associated Error Codes;
- Description of Problem; and
- Other relevant data.

\*Each carrier shall make available a Porting Administration Group or Trouble Reporting contact on a 24x7x365 basis.

**The carriers contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.**

## **Part D – Porting Validation Standards**

### **For Verizon Wireless:**

#### **Information Required For Post-Paid Port Validation:**

1. Billing Last Name
2. Business Name if no information for Billing Name
3. Five Digit Zip Code
4. SSN/Tax ID Number
5. Account Number if no SSN or Tax ID
6. Porting Telephone Number

#### **Information Required for Pre-Paid Port Validation:**

1. Porting Telephone Number
2. Password/PIN

### **For Wireline Carrier B:**

#### **Information Required For Post-Paid Port Validation:**

#### **Information Required for Pre-Paid Port Validation.**

Note: Other than those mandatory data items set forth in Section 3.3.1 of the WICIS, the above shall be the only information which may be utilized by a carrier to this Trading Partner Profile to validate a port request for post-paid numbers. "Delay" or "denial" of ports between the carriers shall occur only in the event a carrier is unable to complete the validation of those validation elements expressly set forth above. Once validated, the Carriers shall be obligated to complete the porting transaction. Any variations or proposed changes in the agreed data fields noted above shall be communicated to the other carrier at the information provided in Part B.



## Part E – Affiliate Lists

### For Verizon Wireless:

Allentown SMSA Limited Partnership d/b/a Verizon Wireless  
By Bell Atlantic Mobile Systems of Allentown, Inc., Its General Partner

Anderson CellTelCo d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Athens Cellular, Inc. d/b/a Verizon Wireless

Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Bell Atlantic Mobile of Asheville, Inc. d/b/a Verizon Wireless

Bell Atlantic Mobile of Rochester, LP d/b/a Verizon Wireless  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

Binghamton MSA Limited Partnership d/b/a Verizon Wireless  
By NYNEX Mobile of New York Limited Partnership, Its General Partner  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

Bismarck MSA Limited Partnership d/b/a Verizon Wireless  
By Cellular Inc. Network Corporation, Its General Partner

Boise City MSA Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

California RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
By Pinnacles Cellular, Inc., Its General Partner

Cellco Partnership d/b/a Verizon Wireless

Cellular Inc. Network Corporation d/b/a Verizon Wireless

Chicago 10 MHz LLC d/b/a Verizon Wireless  
By Cellco Partnership, Its Sole Member

Chicago SMSA LP d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Colorado 7 – Saguache Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

CommNet Cellular License Holding LLC d/b/a Verizon Wireless  
By Cellular Inc. Financial Corporation, Its Sole Member

CyberTel Cellular Telephone Company d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Dallas MTA, LP d/b/a Verizon Wireless  
By Verizon Wireless Texas, LLC, Its General Partner

Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Des Moines MSA General Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

Dubuque MSA Limited Partnership d/b/a Verizon Wireless  
By Southwestco Wireless, LP, Its General Partner  
By Southwestco Wireless, Inc., Its General Partner

Duluth MSA Limited Partnership d/b/a Verizon Wireless  
By AirTouch Minnesota, LLC, Its General Partner  
By Cellco Partnership, Its Sole Member

Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless

Fayetteville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Fresno MSA Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Gadsden CellTelCo Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Gila River Cellular General Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its Managing General Partner

Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless  
By Cellular Inc. Network Corporation, Its General Partner

Grays Harbor-Mason Cellular Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

GTE Mobilnet of Florence, Alabama Incorporated d/b/a Verizon Wireless

GTE Mobilnet of Fort Wayne Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #3 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #6 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Santa Barbara Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless  
By San Antonio MTA LP, Its General Partner  
By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Terre Haute Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Texas RSA #17 Limited Partnership d/b/a Verizon Wireless  
By San Antonio MTA LP, Its General Partner  
By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Texas RSA #21 Limited Partnership d/b/a Verizon Wireless  
By San Antonio MTA LP, Its General Partner  
By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of the Southwest LLC d/b/a Verizon Wireless  
By Cellco Partnership, Its Sole Member

GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless

Hamilton Cellular Telephone Company d/b/a Verizon Wireless  
By New Par, Its General Partner  
By Verizon Wireless (VAW) LLC, Its General Partner

Idaho 6 – Clark Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Idaho RSA No. 1 Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA 3 Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

Illinois RSA 1 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

Illinois RSA 6 and 7 Limited Partnership d/b/a Verizon Wireless  
By Illinois SMSA Limited Partnership, Its General Partner  
By Cellco Partnership, Its General Partner

Illinois SMSA Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Indiana RSA #1 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

Indiana RSA 2 Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Iowa 8 – Monona Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

Iowa RSA 5 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

Iowa RSA 10 General Partnership  
By Cellco Partnership d/b/a Verizon Wireless, Its Manager

Iowa RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless  
By AirTouch Cellular, Its General Partner

Missouri Valley Cellular, Inc. d/b/a Verizon Wireless  
By CommNet Cellular, Inc., Its Managing Agent

Modoc RSA Limited Partnership d/b/a Verizon Wireless  
By AirTouch Cellular, Its General Partner

Muskegon Cellular Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

NC-2 LLC d/b/a Verizon Wireless

New Hampshire RSA 2 Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

New Mexico RSA 3 Limited Partnership d/b/a Verizon Wireless  
By GTE Mobilnet of the Southwest LLC, Its General Partner  
By Cellco Partnership, its Sole Member

New Mexico RSA 6-I Partnership d/b/a Verizon Wireless  
By GTE Mobilnet of the Southwest LLC, Its General Partner  
By Cellco Partnership, Its Sole Member

New Mexico RSA No. 5 Limited Partnership d/b/a Verizon Wireless  
By GTE Mobilnet of the Southwest LLC, Its General Partner  
By Cellco Partnership, Its Sole Member

New Par d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

New York RSA No. 3 Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 New York SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 North Dakota RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch North Dakota, LLC, Its General Partner  
 Northeast Pennsylvania SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Northern New Mexico Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 NYNEX Mobile of New York, LP d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Olympia Cellular Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Omaha Cellular Telephone Company d/b/a Verizon Wireless  
     By AirTouch Nebraska, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless of the East LP, Its General Partner  
     By Verizon Wireless of Georgia LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Oxnard-Ventura-Simi Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 Pennsylvania 3 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania 4 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA 1 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (I) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (II) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsburgh SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsfield Cellular Telephone Company d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Platte River Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent

Portland Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pueblo Cellular, Inc. d/b/a Verizon Wireless  
 Redding MSA Limited Partnership d/b/a Verizon Wireless  
     By Sacramento Valley Limited Partnership, Its General Partner  
     By AirTouch Cellular, Its General Partner  
 Rockford MSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 RSA 7 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Iowa RSA 7, LLC, Its Managing Partner  
     By Cellco Partnership, Its Sole Member  
 Sacramento Valley Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 San Antonio MTA, L.P. d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 San Isabel Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Sanborn Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Sangre De Cristo Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Seattle SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Sioux City MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Smoky Hill Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Southern & Central Wireless, LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Southern Indiana RSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Southwestco Wireless LP d/b/a Verizon Wireless  
     By Southwestco Wireless Inc., Its Managing Partner  
 Spokane MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Springfield Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Joseph CellTelCo d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Syracuse SMSA Limited Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 The Great Salt Flats Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Topeka Cellular Telephone Company, Inc. d/b/a Verizon Wireless

Tuscaloosa Cellular Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner  
Upstate Cellular Network d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner  
Utah RSA 6 Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent  
Verizon Wireless (VAW) LLC d/b/a Verizon Wireless  
Verizon Wireless of the East LP d/b/a Verizon Wireless  
By Verizon Wireless of Georgia LLC, Its General Partner  
By Cellco Partnership, Its Sole Member  
Verizon Wireless Personal Communications LP d/b/a Verizon Wireless  
Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner  
Vermont RSA Limited Partnership d/b/a Verizon Wireless  
By NYNEX Mobile Limited Partnership 1, Its General Partner  
By Cellco Partnership, Its General Partner  
Virginia RSA 5 Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner  
Virginia 10 RSA Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner  
Wasatch Utah RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
By AirTouch Utah, LLC, Its General Partner  
By Cellco Partnership, Its Sole Member  
Washington, DC SMSA Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner  
Waterloo MSA Limited Partnership d/b/a Verizon Wireless  
By Southwestco Wireless LP, Its General Partner  
By Southwestco Wireless Inc., Its General Partner  
Wyoming 1 – Park Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

**For Wireline Carrier B:**

**[Wireline Carrier B to insert its affiliates list here]**

## Porting Questionnaire with Verizon Wireless

Carrier Name:

Completed by:

Date:

1. Name of point of contact (within your company)
  - a. Phone number
  - b. Fax number
  - c. E mail address
2. Name of back up or secondary contact (within your company)
  - a. Phone number
  - b. Fax number
  - c. E mail address
3. Hours of operation
4. Observed holidays
5. Mailing address
6. Please provide the SPID(s) associated with you company.
7. Is your company associated with or a subsidiary of any other companies? If so, which companies and SPIDS
8. How should Verizon Wireless submit a port request or LSR to your company?  
Fax? Email?
9. What is your turnaround for port requests (3,4 or 5 days)?

10. If fax, does the company utilize TSP?
- If not, please provide the fax number
  - If multiple SPID's are involved, do the requests go to the same fax or different numbers?
  - If multiple fax numbers, please provide a list with SPID and corresponding fax number.
  - Are different areas (or regions) covered by different SPIDs (i.e. Northeast US covered by SPID 1234, Southeast US covered by SPID 5678, etc)?
11. If E Mail, please provide e-mail address(es).
- If multiple SPID's are involved, do the requests go to the same e-mail address or different addresses?
  - If multiple addresses, please provide a list with SPID and corresponding e-mail addresses.
  - Are different areas (or regions) covered by different SPIDs (i.e. Northeast US covered by SPID 1234, Southeast US covered by SPID 5678, etc)?
12. If requests are to be sent by any other method, please provide instructions in detail.
13. What LSOG (LSR) version does the company use?
14. Does the company have a template of the LSR, EUI and NP forms showing your required fields and format?
- If yes, can the company provide a copy?
  - If not, can someone go thru a form, line by line, with us to verify properly prepared forms are submitted?
15. Does your company resell numbers to other carriers (type one)?
- If yes:



What companies?

What are their SPIDs?

Any specific NPA-NXX?

Do you have any contact information for these companies?

- b. Does your company or has your company purchased numbers from other carriers?

16. Is the company willing to test with Verizon Wireless?

Any additional comments:

Please return completed form and any attachments to me via fax at 615-372-2382 or via e-mail at [Nilda.Penn@verizonwireless.com](mailto:Nilda.Penn@verizonwireless.com)

LSOG 6 - Revised 6/14/03

Number Portability  
Service Request

## Administrative Section

PON  VER  ATN  PG  OF 

## Service Detail Section

LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG

LSOG 6 - Revised 6/14/03

Local Service  
Request (LSR)**Administrative Section**PON VER LSR NO ATN SC PG OF D/TSENT DDD APPTIME DDDO NOR DEDT DEDT0 PROJECT CHC REQTYP ACT SUP EXP EXP REN RTR CC RVER NNSP ONSP ALBR AGAETH ACTL SACTL LST TOS SPEC NC NCI SECNCI RPON RORD NENA/ECC NPD1 SLI QRYNER SCD AFA ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ACCOUNT FEATURE ACCOUNT FEATURE DETAIL

LSOG 6 - Revised 6/14/03

Local Service  
Request (LSR)**Administrative Section**PON  VER  ATN  PG  OF **Bill Section**BAN1 BAN2 EBP VIA **Contact Section**INIT TELNO FAX NO IMPCON TELNO (IMPCON) DSGCON DRC TELNO (DSGCON) FAX NO (DSGCON) ATR **Remarks**

LSOG 6 - Revised 6/14/03

End User  
Service Request

038225

**Administrative Section**PON VER ATN PG OF **Disconnect Information**DNUM DISC NBR TERS TC OPT TC TO PRI TC TO SEC TC PER TCID TC NAME TCID TC NAME TC TO SEC TCID TC NAME TCID TC NAME TC TO SEC TCID TC NAME TCID TC NAME DNUM DISC NBR TERS TC OPT TC TO PRI TC TO SEC TC PER TCID TC NAME TCID TC NAME TC TO SEC TCID TC NAME TCID TC NAME TC TO SEC TCID TC NAME TCID TC NAME

LSOG 6 - Revised 6/14/03

End User  
Service Request**Administrative Section**PON  VER  ATN  PG  OF **Location and Access Section**LOCNUM NAME  NCON  AFT SAPR  SANO  SASF  SASD SASN SATH  SASS  LD1  LV1 LD2  LV2  LD3  LV3 AAI CITY STATE  ZIP CODE ICON  TELNO ACC WSOP  CPE MFR CPE MOD  ELT **Bill Section**EATN

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE LOCAL NUMBER</b>	)	<b>SUPPLEMENTAL ORDER</b>
<b>PORTABILITY SUSPENSION DOCKETS</b>	)	<b>FOR AND NOTICE OF</b>
	)	<b>HEARING</b>
	)	<b>TC04-025, TC04-038, TC04-</b>
	)	<b>044-056, TC04-060-062,</b>
	)	<b>TC04-077, TC04-084-085</b>

On May 4, 2004, the Commission issued an Order for and Notice of Procedural Schedule and Hearing and of Intent to Take Judicial Notice (Order) in this matter. The procedural history of this docket and statement of jurisdiction is set forth in the Order. The Order provided *inter alia*:

To the extent that the issues and the witnesses and documentary evidence are materially identical in more than one LNP suspension docket, the parties are encouraged to present such common evidence in a consolidated manner that will minimize repetition and opposing parties are encouraged to reasonably stipulate to such consolidated presentation of evidence. The hearing will commence on June 21, with consideration of MidContinent Communications' Motion to Compel, Docket No. TC03-192. Following the hearing on this related docket, the remaining dockets will be heard in docket number order except to the extent that the parties otherwise agree or the Commission shall otherwise order, either prior to or during the hearing. Petition of Santel Communications Cooperative, Inc., Docket No. TC04-038, will be heard on July 1, 2004.

On June 1, 2004 at 1:30 p.m., a pre-hearing scheduling conference was held by teleconference to consider further refinements to the hearing schedule following the filing of pre-filed testimony. The conference was attended by attorneys representing all parties, including commission staff. The purpose of this Order is to expand on and clarify the Order to more specifically schedule the order for consideration of case-specific evidence in the various LNP suspension dockets in order to accommodate, insofar as possible, the schedules of attorneys and witnesses, many of whom will present evidence pertaining to multiple dockets, and to conclude the hearings in time to permit the Commission to render decisions within the time period prescribed by 47 U.S.C. Section 251(f)(2) and ARSD 20:10:32:39 while yet affording a reasonable period for post-hearing briefs.

The parties having conferred through their counsel and having agreed upon a schedule to most efficiently manage the numerous LNP suspension hearings within the limited time available by law for decision, it is therefore

ORDERED, that the hearings in the LNP suspension petition dockets and Docket No. TC03-192 will be conducted in the following order except as the Commission shall otherwise order either prior to or during the hearings (all dates 2004):

June 21, 10:00 a.m.	TC03-192, Midcontinent's Motion to Compel, including any evidence common to this docket and TC04-054
June 21 following TC03-192	TC04-054, ITC
June 22, 10:30 a.m.	TC04-047, Brookings Municipal Utilities

June 23, 8:30 a.m.	TC04-062, Stockholm-Strandburg Telephone Company; TC04-060, Venture Communications Cooperative; TC04-061, West River Cooperative Telephone Company; TC04-077, James Valley Cooperative Telephone Company
June 23, p.m.	Testimony of Steven E. Watkins pertaining to all LNP suspension dockets
June 24, 8:30 a.m.	TC04-050, Valley Telecommunications Cooperative Association, Inc.; TC04-051, Faith Municipal Telephone Company; TC04-045, Golden West Telecommunications Cooperative, Inc.; TC04-044, Sioux Valley Telephone Company; TC04-046, Armour Independent Telephone Company, Bridgewater-Canistota Independent Telephone Company and Union Telephone Company
June 25, 8:30 a.m.	TC04-055, Alliance Communications Cooperative, Inc. and Splitrock Properties, Inc.; TC04-084, Tri-County Telecom, Inc.; TC04-049, McCook Cooperative Telephone Company
June 29, 8:30 a.m.	TC04-025, Kennebec Telephone Company; TC04-052, Midstate Communications, Inc.; TC04-048, Beresford Municipal Telephone Company; TC04-053, Western Telephone Company
June 30, 8:30 a.m.	TC04-085, Cheyenne River Sioux Tribe Telephone Authority; TC04-056, RC Communications, Inc. and Roberts County Telephone Cooperative Association
July 1, 8:30 a.m.	TC04--038, Santel Communications Cooperative, Inc.

Although the Commission will attempt to keep the proceedings within the above schedule, scheduling adjustments may be necessary in the event that proceedings are unable to be completed on the scheduled date or for other good cause. The Commission has scheduled Monday, June 28 as an open hearing date in the event that additional time is needed.

In order to accommodate the testimony common to several dockets and to avoid needless repetition of evidence, the transcript and hearing record for all of the LNP suspension dockets will be recorded as a single transcript and hearing record. A separate transcript and hearing record will be recorded for TC03-192.

It is therefore

ORDERED, that the schedule for the hearing in the LNP suspension dockets and in Docket No. TC03-192 shall be as set forth above; and it is further

ORDERED, that the transcript and hearing record for the LNP suspension dockets and Docket No. TC03-192 shall be recorded as set forth above.



Dated at Pierre, South Dakota, this 16th day of June, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: \_\_\_\_\_

Date: \_\_\_\_\_

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman

Gary Hanson  
GARY HANSON, Commissioner

James A. Burg  
JAMES A. BURG, Commissioner

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE LOCAL  
NUMBER PORTABILITY SUSPENSION  
DOCKETS**

) **ORDER FOR AND NOTICE OF**  
) **HEARING ON MOTION TO COMPEL**  
) **TC04-025, TC04-038, TC04-044-056,**  
) **TC04-060-062, TC04-077, TC04-084-**  
) **085**

On June 14, 2004, Western Wireless, LLC (WWC) filed an Intervenor's Motion to Compel Discovery or in the Alternative to Strike Petitioners' Pre-Filed Testimony Regarding Costs (Motion). On June 18, 2004, Petitioners electronically transmitted Petitioners' Response in Opposition to Intervenor's Motion to Compel Discovery or in the Alternative to Strike Petitioners' Pre-Filed Testimony Regarding Costs. Commission counsel transmitted an email to attorneys for all parties in these proceedings and attempted to schedule a hearing on the Motion for June 18, 2004. Several of the parties have not responded and a quorum of Commissioners cannot be obtained for a hearing on this date. Accordingly, the hearing on WWC's Motion will be held at 11:00 a.m. on June 21, 2004, in the Second Floor Conference Room of the Soldiers and Sailors War Memorial Building (across Capitol Avenue from the Capitol Building), Pierre, South Dakota. The hearing in TC03-192 will be recessed during the hearing on the Motion. It is therefore

ORDERED, that a hearing on WWC's Motion to Compel Discovery or in the Alternative to Strike Petitioners' Pre-Filed Testimony Regarding Costs will be held at the above time and place and the hearing in TC03-192 will be recessed to accommodate such hearing.

Dated at Pierre, South Dakota, this 18th day of June, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Tina Douglas

Date: 6-18-04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman

Gary Hanson  
GARY HANSON, Commissioner

James A. Burg  
JAMES A. BURG, Commissioner

# Bantz, Gosch & Cremer, L.L.C.

◆Attorneys at Law ◆

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Kennith L. Gosch  
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Rory King  
Greg L. Peterson\*  
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Ronald A. Wager  
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Writer's E-mail: jcremer@bantzlaw.com

June 17, 2004

08416-009

Ms. Pamela Bonrud  
Executive Director  
S.D. Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501

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JUN 18 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: In the Matter of the Petitions for Suspension or Modification  
of § 251(b)(2) of the Communications Act of 1934 as Amended

Docket No. TC04-025; TC04-038; TC04-044 through TC04-056;  
TC04-060 through TC04-062; TC04-077; TC04-084; and TC04-085

Dear Ms. Bonrud:

Enclosed is the original and ten copies of Petitioners' Response in Opposition to Intervenor's Motion to Compel Discovery or in the Alternative to Strike Petitioners' Pre-Filed Testimony Regarding Costs. By copy of this letter, I am serving the other parties in this matter. If you have questions, please contact me.

Sincerely,



JAMES M. CREMER

JMC:mvs  
\\JVT\LNP Waiver\Bonrud10  
Enclosures

pc James Groft  
Talbot J. Wiczorek  
Richard D. Coit  
David A. Gerdes  
Darla Pollman Rogers  
Richard J. Helsper  
Jeffrey D. Larson

RECEIVED

JUN 18 2004

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE ) Docket No. TC04-025; TC04-038; TC04-044  
PETITIONS FOR SUSPENSION OR ) through TC04-056; TC04-060 through TC04-062;  
MODIFICATION OF § 251(b)(2) ) TC04-077; TC04-084; and TC04-085  
OF THE COMMUNICATIONS ) PETITIONERS' RESPONSE IN OPPOSITION  
ACT OF 1934 AS AMENDED ) TO INTERVENOR'S MOTION TO COMPEL  
 ) DISCOVERY OR IN THE ALTERNATIVE  
 ) TO STRIKE PETITIONERS' PRE-FILED  
 ) TESTIMONY REGARDING COSTS

COMES now Petitioners by and through their undersigned attorneys, and submit this response to Intervenor's Motion To Compel Discovery Or In The Alternative To Strike Petitioners' Pre-Filed Testimony Regarding Costs ("Motion To Compel"). Petitioners submit that the Motion To Compel should be denied in its entirety. As grounds for such denial, the Petitioners will show that the Motion itself is factually flawed, as it misrepresents discovery answers provided by certain of the Petitioners. Moreover, the principal focus of the Motion seeks the production of cost numbers and documents, all of which concern pricing for Service Order Administration ("SOA") functions with which Western Wireless has no quarrel. And, even if Western Wireless were to change its position regarding the relevancy of this information to its case, Western Wireless has not complied with the terms of the Confidentiality and Protective Agreement ("Agreement") regarding document production from non-parties.

These points will be discussed in order.

The Motion Confuses The Facts

As previously discussed, the Motion To Compel mistates the discovery responses for some Petitioners. For instance, Western Wireless' Brief in Support of its Motion To Compel

purports to represent the response of “All Petitioners” to Question 4a(i) and (ii) (Brief, p. 2). Such is not the case. The Cheyenne River Sioux Tribe, which is subject to the Motion To Compel, did not supply the response attributed to them. Additionally, the answers to interrogatory no. 5 purport to apply to all of the Petitioners. This is not correct. For instance, the answers supplied by the City of Brookings/SWIFTEL and the Cheyenne River Sioux Tribe are at variance with the answers attributed to them in Western Wireless’ Brief. Questions 13, 16, 18, 19 and 21 suffer from more egregious error, in that Western Wireless did not even propound this question to all Petitioners. For example, question 13 only was addressed to the City of Brookings, Interstate Telecommunications Cooperative, Santel and a few others. And questions 18, 19 and 21 were only addressed to the Joint Petition filed by Armour, Union and Bridgewater-Canistota.

#### The Requested Proprietary Information Is Not In Dispute

Notwithstanding the factual errors discussed above, the Motion’s principal focus concerns proprietary data (held by non-parties) about which there is no dispute. In this respect, Western Wireless’ interrogatory questions number 4, 5, 13 and 16, and Production of Documents number 3, all sought SOA pricing information and documents. These items are all the subject of its Motion To Compel and Brief In Support. In Responses to Supplemental Discovery Requests of Petitioners (“Supplemental Responses”) dated June 11, 2004, Western Wireless made clear that it was not challenging SOA pricing, rather, it challenged whether port volumes justified the use of automated SOA. See Interrogatory 10.b. and answer of Western Wireless.

Against this background, the Motion To Compel appears to be a fishing expedition. The Brief In Support is heavily freighted with the notion that the cost information sought by Western

Wireless is so important that Petitioners' cost testimony should be stricken if it is not produced. Yet plainly, this is not an issue with Western Wireless, except in the Motion To Compel itself. This is an unwarranted use of the parties' and Commission's time, and the Motion should be denied as to these SOA cost items and documents.

Western Wireless Has Not Followed The Confidentiality Agreement

Paragraph 10 of the Agreement contemplates that a "non-party" will supply documents "pursuant to process issued by the Commission." All of the SOA cost information and documents sought in the Motion To Compel are the subject of non-disclosure agreements (NDA's) between the Petitioners and third-party SOA vendors. All of these vendors have now been contacted by Petitioners, or their representatives, for permission to supply the SOA information. The vendors have refused to release such information and no process has been requested by Western Wireless from the Commission, as contemplated by the Agreement. The third party SOA vendors have the right to claim a privilege and prevent other persons from disclosing trade secrets owned by them, and if disclosure is required the order shall take such protective measures as is in the interest of the holder of the privilege and the interest of justice required. SDCL 19-13-20. Under these circumstances, particularly in view of the fact that Western Wireless has no quarrel with the SOA costs themselves, the Motion should be denied.

Interrogatory Numbers 18 and 19 Directed to Armour, Union and Bridgewater-Canistota Will Be Supplied Pursuant To The Confidentiality Agreement

Interrogatories 18 and 19 requested certain switch investment information for Armour, Union and Bridgewater-Canistota. Objections were filed based on the confidential nature of the data. Such data has now been developed and will be produced, subject to the Confidentiality Agreement. Interrogatory 21 sought an explanation as to why local switching support resources

should not be used to offset LNP implementation costs. A relevancy objection was made, because there is no connection between the universal service support and LNP rate structure regimes, and Western Wireless' Motion To Compel attempts no explanation as to this interrogatory. The only argument Western Wireless does make concerned the parties' entry into the Confidentiality Agreement, but such Agreement clearly does not erase the discovery standard, which is not met here. Accordingly, the Motion To Compel should be denied in its entirety.

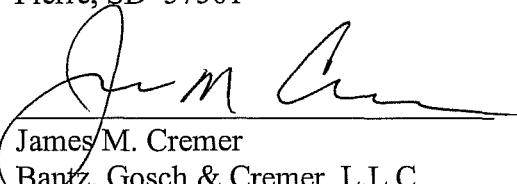
Dated this 17th day of June, 2004.

ATTORNEYS FOR PETITIONERS:

/s/ Jeffrey D. Larson  
Jeffrey D. Larson  
Larson & Nipe  
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Woonsocket, SD 57385-0277

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P.O. Box 970  
Aberdeen, SD 57402-0970

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on the 17th day of June, 2004, a true and correct copy of the foregoing **PETITIONERS' RESPONSE IN OPPOSITION TO INTERVENOR'S MOTION TO COMPEL DISCOVERY OR IN THE ALTERNATIVE TO STRIKE PETITIONERS' PRE-FILED TESTIMONY REGARDING COSTS** was mailed electronically and by first class mail, postage prepaid, to:

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Telephone Company



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AMY K. SCHULTZ  
JASON M. SMILEY

June 17, 2004

RECEIVED

JUN 18 2004

Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 E Capitol Avenue  
Pierre SD 57501

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

RE: Western Wireless License LLC Petition for Suspension or Modification of Local  
Number Portability Docket Nos. TC 04-025; TC04-038; TC04-044 through  
TC04-056; TC04-060 through TC04-062; TC04-077; TC04-084 and TC04-085

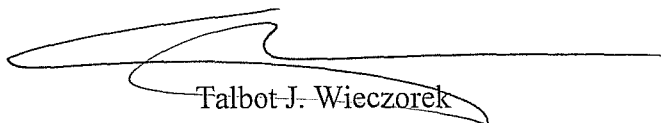
Dear Ms. Bonrud:

Pursuant to SDCL §16-8-2.2, please find an original and ten copies of the Certification of Dean of Law School to permit Paul A. Lewis, a summer intern with Gunderson, Palmer, Goodsell & Nelson, LLP, to attend and participate in Western Wireless License LLC's upcoming hearings regarding local number portability. I checked with the Clerk of Court in Hughes County and Chris informed me I did not need to file this document with the Court.

Western Wireless License, LLC has approved Mr. Lewis' attendance and participation in the hearings.

If you need anything further at this time, please let me know.

Sincerely,

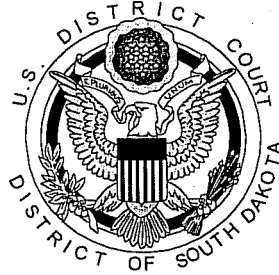


Talbot J. Wiczorek

TJW:klw  
Enclosures

c: Darla Rogers  
Rich Coit  
James Cremer  
Rich Helsper  
Ben Dickens  
Jeff Larson  
David Gerdes

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF SOUTH DAKOTA**



**RECEIVED**

**JUN 18 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**IN THE MATTER OF THE  
CERTIFICATION OF LAW STUDENT AS LEGAL INTERN**

**Certificate of Admission**

I, Joseph Haas, Clerk of the District Court of the United States for the District of South Dakota, do hereby certify that

**Paul A. Lewis**

has been duly admitted and qualified as a law student intern of this Court pursuant to the provisions of Rule 2, Section 9.2 and Section 9.3 of the Rules of Practice of this Court.

This Certificate shall terminate August 13, 2004.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of this court at my office in Sioux Falls in the District of South Dakota, this 26th day of May, 2004.

Joseph Haas, Clerk

BY: Sharon Jurek  
Deputy Clerk

**IN THE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA**

**IN THE MATTER OF THE  
CERTIFICATION OF LAW STUDENT  
AS LEGAL INTERN**

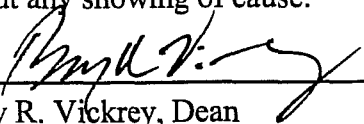
**Court File No. \_\_\_\_\_  
CERTIFICATION OF DEAN  
AND LAW STUDENT, ET AL.**

**TO THE CLERK OF THE ABOVE ENTITLED COURT:**

**CERTIFICATION OF DEAN OF LAW SCHOOL**

Pursuant to the provisions of Local Rule 83.2(I)(2) of the Rules of Practice of this Court, I do hereby certify to the Court that **Paul A. Lewis** is according to my best knowledge, information, and belief, of good moral character, was a student in good standing from the University of South Dakota School of Law (a law school approved by the American Bar Association), will complete legal studies amounting to four semesters on **May 7, 2004**, and is qualified to serve as a Legal Intern. This certificate is valid until **August 13, 2004**, or until termination at any time by a judge of this Court without notice or hearing and without any showing of cause.

Dated April 16, 2004

  
\_\_\_\_\_  
Barry R. Vickrey, Dean  
University of South Dakota School of Law  
414 E. Clark St.  
Vermillion, SD 57069-2390  
Telephone (605) 677-5443

**CERTIFICATION OF LAW STUDENT**

Pursuant to the provisions of Local Rule 83.2(I)(2)(c)(ii) of the Rules of Practice of this Court, I do hereby certify that I have read and agree to abide by the rules of the Court, and all applicable codes of professional responsibility and other relevant federal practice rules.

Dated 04/20/04

  
\_\_\_\_\_  
Legal Intern

**IN THE  
SUPREME COURT OF  
THE STATE OF SOUTH DAKOTA**

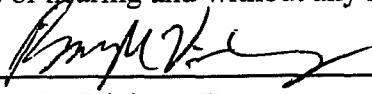
**IN THE MATTER OF THE  
CERTIFICATION OF LAW STUDENT  
AS LEGAL INTERN**

**Court File No. \_\_\_\_\_  
CERTIFICATION OF DEAN  
AND LAW STUDENT, ET AL.**

**TO THE CLERK OF THE ABOVE ENTITLED COURT:  
CERTIFICATION OF DEAN OF LAW SCHOOL**

Pursuant to the provisions of SDCL 16-18-2.2, I do hereby certify to the Court that **Paul A. Lewis** is duly enrolled at the University of South Dakota School of Law, will have completed legal studies amounting to at least four semesters, or the equivalent, on May 07, 2004, and that said individual, according to my best knowledge, information, and belief, is of good moral character and competent legal ability and is adequately trained to perform as a Legal Intern. This certificate is valid until **August 13, 2004**, and shall not remain in effect in excess of eighteen months after it has been filed. Pursuant to SDCL 16-18-2.3, this certification may be terminated by the above entitled Court at any time without notice or hearing and without any showing of cause.

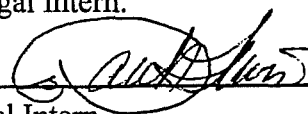
Dated April 16, 2004

  
\_\_\_\_\_  
Barry R. Vickrey, Dean  
University of South Dakota School of Law  
414 E. Clark St.  
Vermillion, SD 57069-2390  
Telephone (605) 677-5443

**CERTIFICATION OF LAW STUDENT**

Pursuant to the provisions of SDCL 16-18-2.2(6), I do hereby certify that I have read and am familiar with the South Dakota Rules of Professional Conduct of the State Bar of South Dakota, the provisions of SDCL Title 16, and the provisions of SDCL 19-13-2 to 19-13-5, inclusive, and I agree to govern my conduct accordingly as a Legal Intern.

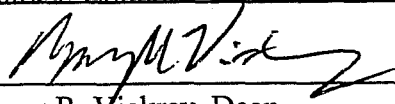
Dated 04/20/04

  
\_\_\_\_\_  
Legal Intern

**DEAN'S APPROVAL OF SUPERVISING LAWYER PURSUANT TO SDCL 16-18-2.9:**

Name of Supervising Lawyer: Mark I. Connot

Dated April 16, 2004

  
\_\_\_\_\_  
Barry R. Vickrey, Dean  
University of South Dakota School of Law  
414 E. Clark St.  
Vermillion, SD 57069-2390  
Telephone (605) 677-5443

RECEIVED

JUN 22 2004

STATE OF SOUTH DAKOTA )  
 )SS  
COUNTY OF HUGHES )

IN CIRCUIT COURT  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION  
SIXTH JUDICIAL CIRCUIT

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

In the Matter of the Petition of Brookings  
Municipal Utilities d/b/a Swiftel  
Communications for Suspension or  
Modification of 47 U.S.C. Section 251 (b)(2))  
Of the Communication Act of 1934 as  
Amended

) Docket Nos. TC04-047; TC04-192;  
) TC04-025; TC04-044 through TC04-046;  
) TC04-048 through TC04-056; TC04-060  
) through TC04-062; TC04-084; and  
TC04-085

ORDER

The above referenced matter having come before the Honorable Judge Gors,  
Circuit Court Judge and the Court having reviewed the Motion Requesting Admission of  
a Nonresident Attorney that was filed in accordance with SDCL 16-18-2 and the Court  
being in all things duly advised; it is hereby,

ORDERED that the Motion Requesting Admission of a Nonresident Attorney is  
granted and that Benjamin H. Dickens, Jr., the nonresident attorney, may appear before  
the South Dakota Public Utilities Commission in Docket No. TC04-047, along with all  
the other above referenced Docket Nos.

Dated this 16 day of June, 2004.

BY THE COURT:

  
Circuit Court Judge

ATTEST:

Christal L. Espeland  
Clerk of Court

State of South Dakota } ss  
County of Hughes }  
I hereby certify that the foregoing  
instrument is a true and correct  
copy of the original on file in my  
office.

Dated this 21 day of June, 2004.  
CHRISTAL L. ESPELAND, Clerk of Courts  
By Christal L. Espeland  
Clerk of Courts/Deputy

STATE OF SOUTH DAKOTA  
CIRCUIT COURT, HUGHES CO.

FILED

JUN 16 2004

Christal L. Espeland Clerk

By \_\_\_\_\_ Deputy

RECEIVED

JUN 22 2004

STATE OF SOUTH DAKOTA )  
 )SS  
COUNTY OF HUGHES )

IN CIRCUIT COURT, SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION  
SIXTH JUDICIAL CIRCUIT

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

In the Matter of the Petition of Brookings ) Docket Nos. TC04-047; TC04-192;  
Municipal Utilities d/b/a Swiftel ) TC04-025; TC04-044 through TC04-046;  
Communications for Suspension or ) TC04-048 through TC04-056; TC04-060  
Modification of 47 U.S.C. Section 251 (b)(2)) through TC04-062; TC04-084; and  
Of the Communication Act of 1934 as ) TC04-085  
Amended )  
 )  
 )

**ORDER**

The above referenced matter having come before the Honorable Judge Gors, Circuit Court Judge and the Court having reviewed the Motion Requesting Admission of a Nonresident Attorney that was filed in accordance with SDCL 16-18-2 and the Court being in all things duly advised; it is hereby,

ORDERED that the Motion Requesting Admission of a Nonresident Attorney is granted and that Mary J. Sisak, the nonresident attorney, may appear before the South Dakota Public Utilities Commission in Docket No. TC04-047, along with all the other above referenced Docket Nos.

Dated this 21 day of June, 2004.

BY THE COURT:

  
Circuit Court Judge

ATTEST:

Christal L. Espeland  
Clerk of Court

State of South Dakota } ss  
County of Hughes }  
I hereby certify that the foregoing  
instrument is a true and correct  
copy of the original on file in my  
office.

Dated this 21 day of June, 2004.  
CHRISTAL L. ESPELAND, Clerk of Courts  
By Christal L. Espeland  
Clerk of Courts/Deputy

STATE OF SOUTH DAKOTA  
CIRCUIT COURT, HUGHES CO.

**FILED**

JUN 21 2004

Christal L. Espeland Clerk

By \_\_\_\_\_ Deputy

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

RECEIVED

JUL 07 2004

IN THE MATTER OF THE INTERVENERS'  
MOTION TO COMPEL DISCOVERY OR IN THE  
ALTERNATIVE TO STRIKE PETITIONER'S  
PREFILED TESTIMONY REGARDING COSTS IN  
DOCKET NOS. TC04-025, TC04-038, TC04-044,  
TC04-045, TC04-046, TC04-047, TC04-048,  
TC04-049, TC04-050, TC04-051, TC04-052,  
TC04-053, TC04-054, TC04-055, TC04-056,  
TC04-060, TC04-061, TC04-062, TC04-077,  
TC04-084, AND TC04-085

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

ORIGINAL

Transcript of Proceedings  
June 21, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION,  
ROBERT SAHR, CHAIRMAN  
GARY HANSON, VICE CHAIRMAN  
JIM BURG, COMMISSIONER

COMMISSION STAFF

John Smith  
Rolayne Ailts Wiest  
Greg Rislov  
Harlan Best  
Keith Senger  
Dave Jacobson  
Michele Farris  
Pam Bonrud

APPEARANCES

TALBOT J. WIECZOREK,  
GUNDERSON, PALMER, GOODSSELL & NELSON, LLP,  
Attorneys at Law, 440 Mt. Rushmore Road,  
Rapid City, South Dakota 57709-8045,  
appearing as co-counsel on behalf of  
the Interveners;

Reported By Cheri McComsey Wittler, RPR

**PRECISION REPORTING**  
**L I M I T E D**

1 THE PUBLIC UTILITIES COMMISSION  
2 OF THE STATE OF SOUTH DAKOTA  
3 =====  
4 IN THE MATTER OF THE INTERVENERS'  
5 MOTION TO COMPEL DISCOVERY OR IN THE  
6 ALTERNATIVE TO STRIKE PETITIONER'S  
7 PREFILED TESTIMONY REGARDING COSTS IN  
8 DOCKET NOS. TC04-025, TC04-038, TC04-044,  
9 TC04-045, TC04-046, TC04-047, TC04-048,  
10 TC04-049, TC04-050, TC04-051, TC04-052,  
11 TC04-053, TC04-054, TC04-055, TC04-056,  
12 TC04-060, TC04-061, TC04-062, TC04-077,  
13 TC04-084, AND TC04-085  
14 =====  
15 Transcript of Proceedings  
16 June 21, 2004  
17 =====  
18 BEFORE THE PUBLIC UTILITIES COMMISSION,  
19 ROBERT SAHR, CHAIRMAN  
20 GARY HANSON, VICE CHAIRMAN  
21 JIM BURG, COMMISSIONER  
22  
23 COMMISSION STAFF  
24 John Smith  
25 Rolayne Ailts Wiest  
Greg Rislov  
Harlan Best  
Keith Senger  
Dave Jacobson  
Michele Farris  
Pam Bonrud  
APPEARANCES  
TALBOT J. WIECZOREK,  
GUNDERSON, PALMER, GOODSELL & NELSON, LLP,  
Attorneys at Law, 440 Mt. Rushmore Road,  
Rapid City, South Dakota 57709-8045,  
appearing as co-counsel on behalf of  
the Interveners;  
Reported By Cheri McComsey Wittler, RPR

1 TRANSCRIPT OF PROCEEDINGS, held in the  
2 above-entitled matter, at the Soldiers and Sailors  
3 World War Memorial Building, 425 East Capitol Avenue,  
4 Pierre, South Dakota, on the 21st day of  
5 June 2004.  
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1 APPEARANCES (Continued)  
2 DARLA POLLMAN ROGERS,  
3 RITER, ROGERS, WATTIER & BROWN, LLP,  
4 Attorneys at Law, 319 South Coteau Street,  
5 Pierre, South Dakota 57501,  
6 appearing on behalf of the Petitioners;  
7 BENJAMIN H. DICKENS and MARY J. SISAK,  
8 BLOOSTON, MORDKOFISKY, DICKENS, DUFFY &  
9 PRENDERGAST,  
10 Attorneys at Law, 2120 L Street, NW, Suite 300,  
11 Washington, D.C. 20037,  
12 appearing as co-counsel on behalf of  
13 the Petitioners;  
14 RICHARD D. COIT,  
15 SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION,  
16 Attorney at Law, P.O. Box 57,  
17 Pierre, South Dakota 57501,  
18 appearing on behalf of the South Dakota  
19 Telecommunications Association;  
20 THOMAS J. WELK (by telephone),  
21 BOYCE, GREENFIELD, PASHBY & WELK,  
22 Attorneys at Law, P.O. Box 5015,  
23 Sioux Falls, South Dakota 57117,  
24 appearing on behalf of Syniverse.  
25 ALSO PRESENT (by telephone):  
Dave Robinson  
Bobbie Reyes

1 CHAIRMAN SAHR: This is the hearing  
2 for the Interveners' Motion to Compel discovery or  
3 in the alternative to strike Petitioner's prefiled  
4 testimony regarding costs in Docket Nos. TC04-025,  
5 04-038, 04-044 through 04-056, 04-060 through  
6 04062, 04-077, 04-084, and 04-085. And,  
7 Mr. Wieczorek ..  
8 For those of you on the phone line we're going  
9 to ask the attorneys to approach the witness stand  
10 and the phone as well so you can hopefully hear a  
11 little bit better, and if at any point in time you  
12 need us to repeat something, please let us know.  
13 Probably the first thing I should do is take  
14 appearances on this particular Motion.  
15 MR. WIECZOREK: Talbot Wieczorek on  
16 behalf of Western Wireless, Intervener.  
17 MS. POLLMAN ROGERS: Darla Rogers on  
18 behalf of the Petitioners. And appearing with me  
19 today are co-counsel, Mary Sisak and Ben Dickens.  
20 MR. COIT: Richard Coit appearing  
21 for SDTA, one of the Interveners in the case.  
22 MS. WIEST: Rolayne Wiest appearing  
23 on behalf of staff of the Public Utilities  
24 Commission.  
25 CHAIRMAN SAHR: Thank you. On the



1 line, Mr. Welk.

2 MR. WELK: Yes. I'm Tom Welk, an  
3 attorney from Sioux Falls, and I represent  
4 Syniverse. That's S-Y-N-I-V-E-R-S-E. We are a  
5 vendor that provided some of the pricing  
6 information to some of the consultants who have  
7 then provided it to some of the Petitioners  
8 regarding some of the software fixes that would be  
9 available regarding number portability.

10 And our interest here, Mr. Chairman and other  
11 Commissioners and other attorneys, is the  
12 protection of the information that our client has  
13 given to the consultants who then have given it to  
14 the independent companies.

15 CHAIRMAN SAHR: Thank you.  
16 Mr. Welk, as you know, we normally have a sign-up  
17 sheet here in Pierre, which we do have, and we've  
18 asked the people in the room to indicate who is  
19 present.

20 Would you please have your clients identify  
21 themselves again for our record.

22 MR. WELK: It's Syniverse,  
23 S-Y-N-I-V-E-R-S-E, and Dave Robinson, has he jumped  
24 on here?

25 MR. ROBINSON: Yes, I'm here.

1 MR. WELK: Mr. Robinson is a manager  
2 of public policy with Syniverse, and he would be a  
3 corporate representative, Mr. Chairman, for the  
4 company.

5 CHAIRMAN SAHR: Thank you very much.

6 MR. SMITH: Before we start is there  
7 anyone else on the line? Are there any other  
8 attorneys in the various LNP dockets on the phone?

9 MS. REYES: Not on the Docket. My  
10 name is Bobbie Reyes, and I'm in-house counsel for  
11 Syniverse Technology. I'm here in the office with  
12 Dave Robinson in Tampa.

13 CHAIRMAN SAHR: Would you please  
14 spell your name.

15 MS. REYES: B-O-B-B-I-E, last name  
16 R-E-Y-E-S.

17 CHAIRMAN SAHR: Thank you very much.

18 MS. REYES: Thank you.

19 CHAIRMAN SAHR: Third time's the  
20 charm.

21 MR. WIECZOREK: I try. I really  
22 appreciate the Commission setting this on for this  
23 time. You know, the LNP's have been filed and kind  
24 of been on the fast track and been a moving target.  
25 So as a way of background, after we did our first

1 set of Interrogatories there was quite a bit of  
2 information objected to based on the fact they had  
3 signed confidentiality and nondisclosure  
4 agreements.

5 The quandary that put us in is most of their  
6 numbers, their hard numbers, we didn't have any  
7 backup information on.

8 We signed the confidentiality agreement. I  
9 then followed up with a letter asking for some  
10 response listing all the objections they had raised  
11 and asked if they would check with their vendors as  
12 promised in their discovery.

13 Finally, I filed a Motion to Compel because I  
14 had never received a response. It came a week ago  
15 last Friday. Since then we've also gotten the last  
16 round of Interveners' testimony, and some of the  
17 numbers changed yet again. So what I attempted to  
18 do to try -- you might recall the last one we did  
19 like this I think we were on the phone three hours.  
20 I don't want to repeat that.

21 So last night I sat down with my company  
22 people, we went through all the numbers and  
23 everything they provided we thought we could at  
24 least have a comfort level their numbers were hard  
25 numbers and we could validate them. What it boiled

1 down to is I'd like to limit my Motion to Compel to  
2 a couple of issues rather than try to deal with  
3 every one.

4 And I think the easiest way to cut to it is go  
5 to request for production number 3, which sought --  
6 and that's where we stated in the brief on page 6  
7 where we sought switch upgrade costs, LNP period  
8 costs, LNP software, et cetera, those costs, the  
9 backup information. In reviewing all the  
10 documentation we've received, essentially for the  
11 cost -- for the Petitioners using the cost coming  
12 out of Nebraska, the Telec group, while we didn't  
13 get the raw bid information, we did get enough  
14 information within what they produced we were  
15 comfortable we knew what they were attempting to  
16 get, what the numbers actually were.

17 So but as to the Petitioners that are  
18 affiliated with Mr. DeWitte's testimony and that's  
19 Swiftel, Interstate, James Valley, Santel,  
20 Stockholm, Venture, and West River, as to all of  
21 their switch-related investment costs, we don't  
22 have any of the bid information.

23 And so I would limit our Motion to the  
24 De Witte Petitioners to get the bid information  
25 they have for that first area of his testimony on

1 his spreadsheet that is entitled Switch-Related  
2 Investment Costs.  
3 And the reason this is important is if you  
4 look at some of the other where -- some of the  
5 information we got from the Telec groups it appears  
6 that in their cost structure they have included --  
7 some of the upgrades that they've included are not  
8 required for to become LNP compliant. And it would  
9 be inappropriate for them to try to increase costs  
10 to drive up their bottom line dollar for nonLNP  
11 compliant costs.

12 There was an issue, and in the response they  
13 mentioned the SOA information. While it's true  
14 they haven't provided the SOA information, you  
15 might -- you've been through all the cost  
16 testimony. That SOA information changed last week  
17 when they filed their last round of testimony. We  
18 still think their SOA information or cost  
19 information is too high for what they really need,  
20 but I am not going to push them having to cough up  
21 the SOA information because I believe I can  
22 adequately cross-examine on that issue or it can be  
23 addressed through my witness.

24 So, like I said, Commission, I'm trying to cut  
25 this down to a defined direction given the recent

1 prefilled testimony and limited as tight as that can  
2 be, knowing we're tight for time and we've got a  
3 long couple of weeks in front of us.

4 MR. DICKENS: Let me move here. You  
5 may want to keep your seat. You and I are going to  
6 have a conversation. I'm not exactly sure what  
7 Mr. Wieczorek wants. You don't want the SOA  
8 information; that is right?

9 MR. WIECZOREK: Based on the  
10 modified testimony filed last week, I don't think  
11 it's necessary at this point.

12 MR. DICKENS: Okay. What is it that  
13 you need?

14 MR. SMITH: For the benefit of the  
15 people on the phone, Ben Dickens is the other  
16 attorney who is speaking.

17 MR. DICKENS: Thank you.

18 MR. WIECZOREK: I'm looking at  
19 Mr. De Witte's supplemental or -- rebuttal  
20 testimony, Exhibit 3A. He has a category at the  
21 top entitled Switch-Related Investment Costs.

22 I would like the LNP software features, where  
23 he got those numbers, the bid break, where he got  
24 those numbers. The additional software feature  
25 he's explained adequately in his testimony, but I'd

1 also like the additional features charged, the  
2 additional vendor fees charged and the --

3 MR. DICKENS: These are covered by  
4 your Interrogatory request number 3?

5 MR. WIECZOREK: Yes.

6 MR. DICKENS: Can I have a minute?

7 MS. WIEST: Which ones?

8 MR. WIECZOREK: The second item  
9 called LNP software he explains adequately in his  
10 testimony. He says where the number comes from,  
11 and we can address that in cross.

12 MS. WIEST: Okay.

13 MR. DICKENS: Let me make a  
14 suggestion that's been pointed out to me. It's  
15 been pointed out to me that information is supplied  
16 in Mr. De Witte's prefilled testimony. Could you  
17 look this over and tell us if this is sufficient or  
18 not?

19 MR. WIECZOREK: Yeah. Some of that  
20 information is supplied like the LNP software.  
21 There's a charge that he's got -- excuse me.  
22 Additional software features. I think I misspoke.  
23 It's the LNP software features we want the bids.  
24 He says obtained bids, but I don't have copies of  
25 the bids. I don't know exactly what that entails.

1 MR. DICKENS: I'm advised the bids  
2 were oral.

3 MR. WIECZOREK: Well, then if they  
4 are oral and that's going to be the representation,  
5 like I believe I set forth in my brief, I retain  
6 the right to argue in briefing that failure to  
7 document their costs properly is grounds for it to  
8 be found they can't meet their burden in these  
9 cases, but assuming there's got to be some kind of  
10 spec information given at some point as to what the  
11 bids were based on.

12 MR. DICKENS: Well, there's as much  
13 information as there is in Mr. Williams's rebuttal  
14 testimony. He suffers from the same lack of  
15 documentation.

16 MR. WIECZOREK: His direct?

17 MR. DICKENS: To the extent it's  
18 oral and not documented, it's similar to  
19 Mr. Williams's prefilled testimony.

20 MR. WIECZOREK: So the Commission  
21 understands what we got from Telec, they had  
22 e-mails going back and forth setting forth what the  
23 bids were based on, essentially what tech  
24 requirements, and I guess I would ask that those  
25 e-mails be produced if you e-mailed them.

13

1 If Mr. De Witte says all he did was called  
 2 them and say ballpark this number, then I guess  
 3 there's nothing we can do.  
 4 MS. WIEST: Are we still talking  
 5 about LNP software features?  
 6 MR. WIECZOREK: I'm assuming --  
 7 MS. WIEST: Are we talking about all  
 8 four categories?  
 9 (Discussion off the record)  
 10 (A short recess is taken)  
 11 MR. SMITH: We're back on the  
 12 record. We were in recess for a few minutes here  
 13 while the attorneys attempted to work out an  
 14 agreement, and, Mr. Wieczorek, please proceed.  
 15 MR. WIECZOREK: Yes, Commission,  
 16 even though in the responses they talked about  
 17 information obtained from nondisclosure agreements,  
 18 after talking to Mr. De Witte he made it clear that  
 19 he didn't get any paper information on this. It's  
 20 just information he acquired either through phone  
 21 calls, or it's my understanding he's going to  
 22 testify he got it from phone calls.  
 23 MR. DICKENS: It's a different  
 24 category of information you're talking about. Is  
 25 that right, John? Isn't this a different category

14

1 of information?  
 2 MR. DE WITTE: Yes.  
 3 MR. WIECZOREK: In response to the  
 4 request for production you also said that  
 5 information was required by -- through NDA.  
 6 MS. POLLMAN ROGERS: Some of that  
 7 was weren't the SOA costs included in the request  
 8 for production number 3?  
 9 MS. SISAK: Yes.  
 10 MR. WIECZOREK: I'm not talking  
 11 about SOA. I talking about request for production  
 12 3, the stuff I narrowed my request to. Your  
 13 response in the discovery responses was that you  
 14 obtained that information pursuant to NDA. All I'm  
 15 telling the Commission is you've now represented to  
 16 me that there's actually no nondisclosure  
 17 agreement. Switch update costs, LNP software  
 18 features, that information, you didn't get hard  
 19 copies of that, it's just information you got over  
 20 the phone.  
 21 MS. POLLMAN ROGERS: The point of  
 22 clarification I'm trying to make is in the actual  
 23 request for production the responses there were  
 24 correct because some of that information was  
 25 obtained pursuant to an NDA, and it's only since

15

1 then today that you narrowed it to those other  
 2 issues.  
 3 MR. WIECZOREK: Commission, all I  
 4 was trying to point out is that the response -- the  
 5 documents and responses to request --  
 6 (Inaudible) --  
 7 (Discussion off the record)  
 8 MR. WIECZOREK: The documents in  
 9 response to this request were obtained pursuant to  
 10 NDA and, therefore, Petitioner cannot provide them.  
 11 Petitioner received permission from the vendors to  
 12 provide these documents subject to the  
 13 confidentiality rule.  
 14 So all I'm saying is it's our understanding  
 15 they had gotten documents. We went out into the  
 16 hall. Mr. De Witte said, no, I didn't get  
 17 documents to the cost you narrowed your stuff to.  
 18 And so that's all I'm laying out on the record  
 19 here. And so he's going to testify to it, and it's  
 20 my understanding he'll probably testify as to why  
 21 he came up with those numbers and the way he did  
 22 it. But he just doesn't have any documentation for  
 23 it.  
 24 MR. DICKENS: He did provide you  
 25 with information and answered your questions.

16

1 MR. WIECZOREK: We talked about it.  
 2 He said here's how I do it and some of it's based  
 3 on my experience and some of it's based on me  
 4 making a couple of calls.  
 5 That was the only clarification. I wasn't  
 6 meaning to --  
 7 MR. SMITH: For clarification then  
 8 do we still have a Motion on the table?  
 9 MR. WIECZOREK: I guess I would  
 10 remove my Motion, just with the proviso as I said  
 11 at the beginning that I'm going to retain the right  
 12 to argue that they failed to meet their burden for  
 13 failure to actually obtain bids and hard numbers  
 14 and provide them -- but I don't believe that's part  
 15 of my Motion.  
 16 MS. POLLMAN ROGERS: So your Motion  
 17 is withdrawn?  
 18 MR. WIECZOREK: Yeah.  
 19 MR. SMITH: Okay. That ends that.  
 20 Is there anything that anyone has to say on the  
 21 telephone regarding this?  
 22 MR. WELK: This is Mr. Welk. I  
 23 assume in light of the withdrawal any concerns  
 24 about the disclosure of the proprietary information  
 25 from my client would be moot?

1 CHAIRMAN SAHR: Yes.  
2 MR. WELK: All I need to know.  
3 CHAIRMAN SAHR: Thank you. We can  
4 go off the record.  
5 (Discussion off the record)  
6 MR. SMITH: The hearing is over.  
7 (The hearing concluded at 11:30 a.m.)  
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1 STATE OF SOUTH DAKOTA )  
2 :SS CERTIFICATE  
3 COUNTY OF HUGHES )  
4  
5 I, CHERI MCCOMSEY WITTLER, a Registered  
6 Professional Reporter and Notary Public in and for the  
7 State of South Dakota:  
8 DO HEREBY CERTIFY that as the duly-appointed  
9 shorthand reporter, I took in shorthand the proceedings  
10 had in the above-entitled matter on the 21st day of  
11 June 2004, and that the attached is a true and  
12 correct transcription of the proceedings so taken.  
13 Dated at Pierre, South Dakota this 22nd day  
14 of June 2004.  
15  
16

17   
18 Cheri McComsey Wittler,  
19 Notary Public and  
20 Registered Professional Reporter  
21  
22  
23  
24  
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THE PUBLIC UTILITIES COMMISSION

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SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Transcript of Proceedings

VOLUME I

June 21 & 22, 2004

**ORIGINAL**

IN THE MATTER OF THE PETITION OF  
KENNEBEC TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-025

IN THE MATTER OF THE PETITION OF  
SANTEL COMMUNICATIONS COOPERATIVE,  
INC. FOR SUSPENSION OF INTERMODAL  
LOCAL NUMBER PORTABILITY OBLIGATIONS

TC04-038

IN THE MATTER OF THE PETITION OF  
SIOUX VALLEY TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-044

IN THE MATTER OF THE PETITION OF  
GOLDEN WEST TELECOMMUNICATIONS  
COOPERATIVE, INC., VIVIAN TELEPHONE  
COMPANY AND KADOKA TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-045

IN THE MATTER OF THE PETITION OF  
ARMOUR INDEPENDENT TELEPHONE COMPANY,  
BRIDGEWATER-CANISTOTA INDEPENDENT  
TELEPHONE COMPANY AND UNION TELEPHONE  
COMPANY FOR SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-046

Reported By Cheri McComsey Wittler, RPR, CRR

**PRECISION REPORTING**

L I M I T E D



APPEARANCES (Continued)					Witnesses				
		Direct	Cross	Redir		Direct	Cross	Redir	Recross
1	BENJAMIN H. DICKENS and MARY J. SISAK,				1	Mark Benton	967 970,974	976	978
2	BLOOSTON, MORDKOFKY, DICKENS, DUFFY &				2	Todd Hansen	980 983,987	987	--
3	PRENDERGAST,				3	Dan Davis	989 995,1011	1015	--
4	Attorneys at Law, 2120 L Street, NW, Suite 300,				4		1037 --	--	--
5	Washington, D.C. 20037,				5		1054 1056	--	--
6	appearing as co-counsel on behalf of Alliance				6	Pamela Harrington	1043 1045	1053	--
7	and Splitrock, Armour, Union,				7	Gene Kroell	1091 1095,1102	1115	1118
8	Bridgewater-Canistota, Beresford, CRST,				8		1104,1118		
9	Faith, Golden West, Vivian and Kadoka,				9	WWC Exhibit Nos.	M	O	R
10	Interstate, Kennebec, McCook, Midstate,				10	1 - Testimony of Ron Williams	13	546	549
11	Roberts County and RC, Sioux Valley,				11	2 - 11/18/03 Letter from ITC	48	52	52
12	Stockholm-Strandburg, Tri-County, Valley,				12	3 - 11/21/03 Letter from ITC	48	52	52
13	West River, Western, and Brookings;				13	4 - 12/19/03 Letter from	48	52	52
14	RICHARD D. COIT,				14	Wilson to Heiberger	48	52	52
15	SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION,				15	5 - Routing Proposal by ITC	52	89	--
16	Attorney at Law, P.O. Box 57,				16	6 - Minnesota Petition for	56	550	553
17	Pierre, South Dakota 57501,				17	Suspension	314	314	315
18	appearing on behalf of the South Dakota				18	7 - 10/18/03 Letter from	449	--	--
19	Telecommunications Association;				19	Williams to Swiftel	529	541	548
20	JEFFREY D. LARSON,				20	8 - 12/19/04 Letter from	529	549	--
21	LARSON & NIPE,				21	Williams to Reisenauer	529	541	549
22	Attorneys at Law, P.O. Box 277,				22	9 - Revised Costs	539	541	549
23	Woonsocket, South Dakota 57385,				23	10 - NECA Model End-User	691	700	701
24	appearing on behalf of Santel;				24	Charges			
25	JODY ODEGAARD SMITH,				25	11 - Survey of rural customers			
	GLOVER, HELSPER & RASMUSSEN,					12 - NECA Letter with Model			
	Attorneys at Law, 100 22nd Avenue, Suite 200,					13 - 2004 Rural Youth Survey			
	Brookings, South Dakota 57006,								
	appearing on behalf of Brookings.								

I N D E X						INDEX (Continued)					
	Witnesses	Direct	Cross	Redir	Recross		WWC Exhibit Nos.	M	O	R	
1	Jerry Heiberger	41	44,94			1					
2			104	126	129	2	14 - Qwest Comments	697	700	701	
3	John DeWitte	135	141,205			3	15 - Bullock companies cost comparisons	925	926	926	
4		454	464,472	269	281,290	4	16 - Letter from Oak Hill Consulting	951	952	953	
5		--	1085	490	492	5	17 - Western Switch Upgrade Costs	1004	1010	1011	
6		1121	1089	--	--	6	18 - Spreadsheets for today's companies	1018	1021	1021	
7			1125	--	--	7	19 - Revised Santel Cost Comparison	1129	1130	1130	
8	W. James Adkins	294	298,299			8	ITC Exhibit Nos.	M	O	R	
9			317	322	325	9	1 - Heiberger Direct	13	43	43	
10	Marjorie Nowick	341	344,352	359	--	10	2 - Heiberger Rebuttal	13	43	43	
11		362	365,386			11	3 - DeWitte Direct	13	140	140	
12			387	411	418	12	4 - DeWitte Rebuttal	13	140	140	
13	Jerry Reisenauer	427	430,439	445	448,451	13	4A - DeWitte Supplemental Rebuttal	1082	1082	1083	
14	Steven Watkins	495	508,510	526	--	14	4B - DeWitte Corrected to Rebuttal Supplemental	1082	1082	1083	
15		529	565,591			15	5 - Petition	13	--	--	
16			600,611	687	705,713	16	6 - Revised Heiberger Direct	1071	1072	1072	
17	Ron Williams	529	565,591			17	7 - Simmons Direct	1071	1072	1072	
18			925	940	940	18	8 - Lohnes Direct	1071	1072	1072	
19		1019	1022	1035	--	19	9 - Letter dated 6/23/04	1078	1079	1079	
20		1058	1059	--	--	20	Midcontinent Exhibit Nos.	M	O	R	
21		1129	1131	1134	--	21	1 - Unidentified	13	--	--	
22	Steven Oleson	739	741,750			22					
23			751	754,756	755	23					
24	Shane Ayres	757	759,760			24					
25			761	--	--	25					
26	Dennis Law	766	773,785								
27			787	804,812	807						
28	Don Snyders	813	814,819								
29			819	822	822,823						
30	Bryan Roth	824	826,831	--	--						
31	Tom Bullock	833	865,886								
32			890	907	913,917						
33	Rod Bowar	943	950,956	962,966	964						

1	INDEX (Continued)				9
2	<u>Midcontinent Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
3	2 - The Latest on Local Number Portability, by Heiberger	13	103	103	
4	<u>Brookings Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
5	1 - Adkins Direct	293	297	298	
6	2 - Adkins Rebuttal	293	297	298	
7	3 - DeWitte Direct	327	463	464	
8	<u>Stockholm Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
9	1 - Nowick Direct	327	344	344	
10	2 - Nowick Rebuttal	327	344	344	
11	3 - DeWitte Direct	327	463	464	
12	<u>Venture Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
13	1 - Houdek Direct	362	365	365	
14	2 - Houdek Rebuttal	362	365	365	
15	3 - DeWitte Direct	362	463	464	
16	4 - 6/18/04 Letter to Wise from Powell	414	416	418	
17	<u>West River Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
18	1 - Reisenauer Direct	426	429	429	
19	2 - Reisenauer Rebuttal	426	429	429	
20	3 - DeWitte Direct	426	463	464	
21	<u>SDTA Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
22	1 - Watkins Direct	327	496	497	
23	2 - Watkins Rebuttal	327	496	497	
24	3 - List of SDTA Members	592	638	638	
25					

1	INDEX (Continued)				11
2	<u>Bullock Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
3	1 - Bullock Direct	833	858	859	
4	2 - Bullock Rebuttal	833	858	859	
5	3 - Bullock Corrected	1081	1081	1081	
6	<u>Alliance Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
7	1 - Snyders Direct	812	814	814	
8	2 - Snyders Rebuttal	812	814	814	
9	3 - Bullock Direct	812	865	865	
10	<u>McCook Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
11	1 - Roth Direct	823	865	865	
12	2 - Roth Rebuttal	823	825	826	
13	<u>Tri-County Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
14	1 - Bullock Direct	833	865	865	
15	<u>Western Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
16	1 - Davis Direct	989	994	994	
17	<u>Davis Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
18	1 - Davis Direct, Multi-company	989	994	994	
19	2 - Davis Rebuttal	989	994	994	
20	<u>Midstate Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
21	1 - Benton Direct	989	970	970	
22	2 - Benton Rebuttal	989	970	970	
23	3 - Davis Direct	989	994	994	
24					
25					

1	INDEX (Continued)				10
2	<u>SDTA Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
3	4 - ITC Interconnection Agreement	594	638	--	
4	<u>Valley Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
5	1 - Oleson Direct	738	754	754	
6	2 - Oleson Rebuttal	738	754	754	
7	3 - Bullock Direct	738	865	865	
8	<u>Faith Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
9	1 - Ayres Direct	757	759	759	
10	2 - Ayres Rebuttal	757	759	759	
11	3 - Bullock Direct	757	865	865	
12	<u>Golden West Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
13	1 - Strandell Direct	765	768	768	
14	2 - Strandell Rebuttal	765	768	768	
15	3 - Bullock Direct	765	865	865	
16	<u>Armour Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
17	1 - Law Direct	765	771	771	
18	2 - Law Rebuttal	765	771	771	
19	3 - Bullock Direct	765	865	865	
20	<u>Sioux Valley Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
21	1 - Law Direct	765	772	772	
22	2 - Law Rebuttal	765	772	772	
23	3 - Bullock Direct	765	865	865	
24					
25					

1	INDEX (Continued)				12
2	<u>Beresford Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
3	1 - Hansen Direct	989	982	983	
4	2 - Hansen Rebuttal	989	982	983	
5	3 - Davis Direct	989	994	994	
6	<u>Kennebec Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
7	1 - Bowar Direct	989	950	950	
8	2 - Bowar Rebuttal	989	950	950	
9	3 - Davis Direct	989	994	994	
10	<u>RC Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
11	1 - Harrington Direct	1043	1045	1045	
12	2 - Harrington Rebuttal	1043	1045	1045	
13	3 - Davis Company-Specific Direct	1043	1055	1056	
14	<u>Cheyenne River Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
15	1 - Williams Direct	1061	--	--	
16	2 - Williams Rebuttal	1061	--	--	
17	3 - Neff Direct	1061	--	--	
18	4 - Neff Rebuttal	1061	--	--	
19	5 - Costs document	1061	--	--	
20	<u>Santel Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	
21	1 - Kroell Direct Prefiled	1071	1094	1094	
22	2 - DeWitte Direct Prefiled	1071	1124	1124	
23	3 - DeWitte Rebuttal	1071	--	--	
24					
25					

1 (Exhibit WWC 1 is marked for identification)  
 2 (Exhibits ITC 1 through 5 are marked for identification)  
 3 (Exhibits Midco 1 and 2 are marked for identification)  
 4 -----  
 5 TRANSCRIPT OF PROCEEDINGS, held in the  
 6 above-entitled matter, at the State Capitol Building,  
 7 500 East Capitol Avenue, Pierre, South Dakota, on the  
 8 21st day of June through the 1st day of July 2004.  
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1 CHAIRMAN SAHR: I will begin the  
 2 hearing for the local number portability Dockets. The  
 3 time is approximately 2:30 p.m. The date is June 21,  
 4 2004, and the location of the hearing is Room 412 in  
 5 the Capitol Building, Pierre, South Dakota. I'm Bob  
 6 Sahr, Commission Chairman. Commissioners Gary Hanson  
 7 and Jim Burg are also present. I am presiding over  
 8 this hearing.  
 9 This hearing was noticed pursuant to the  
 10 Commission's order for and notice of procedural  
 11 schedule of hearing and of intent to take judicial  
 12 notice issued May 4, 2004. The issues at this hearing  
 13 will be, one, whether and the extent to which the  
 14 suspension of LNP requirements requested by Petitioner,  
 15 A, is necessary, one, to avoid a significant adverse  
 16 economic impact on users of telecommunications services  
 17 generally, two, to avoid imposing a requirement that is  
 18 unduly economically burdensome or, three, to avoid  
 19 imposing a requirement that is technically infeasible  
 20 and, B, is consistent with the public interest,  
 21 convenience, and necessity, two, if the suspension is  
 22 found to be justified, what the duration of the  
 23 suspension should be and, three, whether any other  
 24 relief should be granted.  
 25 All parties have the right to be present and

1 to be represented by an attorney. All persons so  
 2 testifying will be sworn in and subject to  
 3 cross-examination by the parties. The Commission's  
 4 final decision may be appealed by the parties to the  
 5 State Circuit Court and State Supreme Court. John  
 6 Smith will act as Commission counsel. He may provide  
 7 recommended rulings on procedural and evidentiary  
 8 matters. The Commission may overrule its counsel's  
 9 preliminary rulings throughout the hearing. If not  
 10 overruled, the preliminary rulings will become final  
 11 rulings. At this time I will take the appearances of  
 12 the parties.

13 MR. WIECZOREK: Talbot Wieczorek,  
 14 Western Wireless, Commission. Also assisting me is  
 15 Paul Lewis who is appearing under senior  
 16 certificate, second year law student, which I have  
 17 filed in these Dockets.

18 MR. GERDES: Mr. Chairman, members  
 19 of the Commission, I'm Dave Gerdes. I'm a lawyer  
 20 from Pierre with the law firm of May, Adam, Gerdes  
 21 & Thompson. I appear for Midcontinent  
 22 Communications. With me is J.G. Harrington, who is  
 23 a Washington attorney also appearing pro hac vice.

24 MS. AILTS WIEST: Rolayne Wiest on  
 25 behalf of Commission staff.

1 MS. POLLMAN ROGERS: Darla Pollman  
 2 Rogers. I am appearing on behalf of all of the  
 3 companies listed in these Dockets with the  
 4 exception of Santel Communications Cooperative  
 5 which is TC04-058, Brookings Municipal Utilities  
 6 doing business as Swiftel Communications which is  
 7 TC04-047, and James Valley Cooperative Telephone  
 8 Company which is TC04-077. I believe that's all. I  
 9 am appearing on behalf of the rest of them.

10 And in addition I have with me today  
 11 Ben Dickens and Mary Sisak from Washington, D.C.,  
 12 and I would again -- will be filing pro hac vice  
 13 orders and they can identify which Dockets in  
 14 addition to ones I have named in which they are  
 15 appearing.

16 MR. COIT: Mr. Chairman, members of  
 17 the Commission and staff, my name is Richard Coit  
 18 and I'm appearing today on behalf of all of the  
 19 SDTA member companies, specifically SDTA as an  
 20 association. Thank you.

21 MR. DICKENS: Mr. Chairman, I have  
 22 one other appearance to make for myself and  
 23 Ms. Sisak and that is we're appearing on behalf of  
 24 Brookings Municipal Utilities d/b/a Swiftel  
 25 Communications, which is TC04-047 and Jodie Smith

17

1 is with us from Mr. Helsper's firm.

2 CHAIRMAN SAHR: Thank you.

3 MR. SMITH: Are we ready to proceed?

4 CHAIRMAN SAHR: Yes.

5 MR. SMITH: The counsel for

6 Petitioners has requested to be able to make an

7 opening statement. One other note for the record.

8 We've had several discussions among the parties

9 leading up to the hearing today involving how to

10 handle the mechanics of the hearing given the

11 similarity of issues, at least the general issues

12 in the multitude of suspension Dockets.

13 And those discussions, I think can be fairly

14 summarized as concluding that to the extent we can,

15 we will try to keep the testimony that -- or try to

16 keep the introduction of testimony that is common

17 to a multitude of Dockets to a minimum, that once

18 introduced, unless there is something specific to a

19 particular company that distinguishes it, that it

20 would be introduced in the entirety of the Dockets

21 to which it pertains.

22 And as we go along here there may be obviously

23 situations where we'll have to carve out

24 exceptions. But given that, I think right now --

25 and there are a couple of lawyers that aren't here

18

1 right now, but I think perhaps it would be

2 appropriate to begin in the opening statements with

3 addressing basically the overall proceeding that

4 we're involved in, which is the LNP Dockets as a

5 class of cases that we're going to hear together.

6 And with that, Ms. Rogers for the Petitioners,

7 you may proceed.

8 MS. POLLMAN ROGERS: Thank you. I

9 would state for the benefit of those who are here

10 and the Commission in particular that I have

11 confined my opening remarks to -- or I will confine

12 them to more general issues, and they will relate

13 to all of the Dockets.

14 I would, however, reserve the right for those

15 attorneys that are not present to make some opening

16 comments at the beginning of each of their Dockets

17 if they would so choose to do so. And I would also

18 tell you so that you can relax a little bit that I

19 do not intend to repeat this statement at the

20 beginning of every Docket. Relief by all.

21 Members of the Commission, we are facing

22 several days here and maybe long days of hearings,

23 and they will be continuing probably over the next

24 couple of weeks. And as I consider the complexity

25 of the issues facing us as we sort through the maze

19

1 of LNP, I've struggled with how to help you as a

2 State Commission put your arms around the complex

3 issues involved with local number portability.

4 And I am not implying by that comment that

5 this is unique to you as a South Dakota Commission.

6 I believe you are aware that commissions across the

7 United States are probably facing similar questions

8 and issues and, in fact, the FCC is also facing

9 some unresolved issues relating to LNP.

10 But my clients are here today before you as

11 state regulators and they are petitioning for

12 suspension or modification of local number

13 portability requirements so that starts us on our

14 LNP journey. And perhaps I can assist all of us in

15 the room by referencing and urging us to focus on

16 just a few issues and what I perceive to be key

17 points over the next few days.

18 Before I bring to your attention those key

19 points, I would, however, like to remind you of the

20 jurisdiction and authority that you have in these

21 Dockets. Western Wireless has told you

22 Section 251(b)(2) of the Act, and I'm referring to

23 the Federal Communications Act, imposes the duty on

24 all local exchange carriers to provide to the

25 extent technically feasible, number portability.

20

1 While we do not dispute that section of the code, I

2 would also specifically draw your attention to

3 Section 251(f)(2) of the Federal Act and also

4 SDCL 49-31-80.

5 Each of those statutory sections, one at the

6 federal level and one at the state level, gives

7 this Commission the jurisdiction to suspend or

8 modify those requirements for LECs with fewer than

9 2 percent of the nation's subscriber lines. Under

10 the Act, suspension or modification shall be

11 granted to the extent that and for the duration

12 that the State Commission deems necessary if the

13 statutory requirements are met.

14 As I will discuss later, the Petitioners have

15 done that, and they will do that over the course of

16 the next few days. They will show you through

17 their evidence that they have met those statutory

18 burdens. So what I am telling you or suggesting to

19 you today is that under the Act and under South

20 Dakota Law you have the power and the

21 responsibility to act upon these petitions and to

22 suspend or modify if the statutory requirements are

23 met.

24 Interveners Western Wireless and in some of

25 the Dockets Midcontinent argue that the FCC has

<p>21</p> <p>1 found that LNP is necessary for competition. I 2 would suggest to you that this argument is not 3 relevant to this proceeding. The purpose of 4 Section 251(f)(2) was to allow State Commissions 5 such as yourself to come to a different conclusion 6 than the FCC with respect to rural carriers if it's 7 necessary to protect rural subscribers and those 8 carriers here in South Dakota.</p> <p>9 Our evidence will demonstrate that the FCC's 10 attempts to limit the determinations made by State 11 Commissions in connection with Section 251(f), 12 these proceedings, that in fact the courts have 13 rejected that, any attempt to limit your authority. 14 And our evidence will also show that Western 15 Wireless has argued before the FCC on other 16 occasions that LNP is not necessary for 17 competition.</p> <p>18 So the bottom line and the point I'm making to 19 you is that you have the power and the authority 20 and the jurisdiction to take the actions we are 21 requesting you to take today and over the next few 22 days.</p> <p>23 Now let's look at some of the factors that I 24 believe are key in these cases, and there are 25 certainly a lot of them. You've been inundated</p>	<p>23</p> <p>1 costs including costs associated with changes and 2 company processes and procedures.</p> <p>3 Except for the service order administration, 4 Western Wireless disputes few of these costs and 5 only in minor ways. Western Wireless's dispute 6 with respect to the service order administration is 7 not with the estimated cost of SOA but rather they 8 argue that an automatized SOA process cannot be 9 justified by the low volume of calls anticipated by 10 the Petitioners. Western Wireless argues that 11 Petitioners should use a manual SOA process. Our 12 evidence, however, will show an automated SOA 13 process may be necessary to meet the porting 14 interval and especially if it is reduced to two 15 days or less.</p> <p>16 Our evidence will also show and in fact it's 17 clear from the law itself that there is no 18 requirement that carriers select the least cost LNP 19 process. Western Wireless's argument regarding 20 service order administration is based on the 21 Petitioner's low estimated number of ports, but you 22 will note from the evidence submitted that Western 23 Wireless's estimates of ports is much higher. The 24 bottom line is the number of ports is not known at 25 this time.</p>
<p>22</p> <p>1 with a lot of exhibits and a lot of evidence, 2 documents. But I would like to focus our thoughts 3 on three things over the next few days.</p> <p>4 The first one is the cost and the cost benefit 5 analysis. The second one is the transport and 6 routing issues, and the third one is the unresolved 7 or the unresolved issues including but not limited 8 to porting and wireless-to-wireline porting. I 9 think that if we focus and as we focus on these 10 three things it will become clear that the 11 Petitioners have demonstrated that LNP is not in 12 the public interest.</p> <p>13 So let's look first of all at the cost 14 evidence and exhibits that I anticipated will be 15 presented over the next few days. Although 16 Petitioner's cost consultants formatted and 17 calculated estimated LNP costs somewhat 18 differently, there is no dispute on most of the 19 cost elements and most of the estimated cost 20 elements.</p> <p>21 If we look at LNP from a cost perspective, it 22 includes several things. Number one, the 23 switch-related costs and expenses, number two, the 24 LNP query and service order administration costs, 25 and number three, the technical and administrative</p>	<p>24</p> <p>1 Perhaps the most significant thing is the 2 federal LNP surcharge can only be imposed for five 3 years and once imposed the FCC rules make increases 4 in the surcharges extremely unlikely. Therefore, 5 if a change in the SOA process is required after 6 initial implementation, either because a porting 7 interval is reduced or because the number of ports 8 is greater than expected by the Petitioners, 9 Petitioners will not be available to go back to 10 recover any additional costs through the federal 11 LNP surcharge.</p> <p>12 Now let's look at the next point. You'll 13 recall I said the cost was the first one. The 14 second one I would like you to focus on would be 15 transport. I believe that the transport and the 16 costs associated with it are very, very big issues 17 in these cases. I would point out, first of all, 18 that there is no federal requirement concerning how 19 calls to ported numbers must be routed. That issue 20 was left unresolved in the November 10 order.</p> <p>21 The FCC made certain assumptions regarding the 22 routing and rating of calls to ported numbers which 23 are wrong with respect to South Dakota. Under 24 current call routing and interconnection 25 arrangements, in most cases calls to numbers ported</p>

1 to wireless carriers will be rated and routed as a  
2 toll call. Under current call routing and  
3 interconnection arrangements if a wireless carrier  
4 wants calls to numbers ported to the wireless  
5 carrier to be rated and routed as a local call, the  
6 wireless carrier must establish a direct connection  
7 to each LEC switch. Therefore, Petitioner's cost  
8 exhibits introduced in these hearings reflect the  
9 transport costs that would be incurred if direct  
10 connections are established.

11 Now Western Wireless does not necessarily  
12 dispute the first two points I made concerning the  
13 current routing and interconnection arrangements,  
14 but Western Wireless does argue that the transport  
15 costs listed by Petitioners are excessive because  
16 Petitioners should instead route traffic to Qwest  
17 as a transit carrier.

18 However, I would point out and in fact Western  
19 Wireless admits that there is no requirement for  
20 Petitioners to route calls to Qwest and that the  
21 interconnection arrangements or agreements between  
22 Western Wireless and the Petitioner do not require  
23 this. The Commission should not require Petitioner  
24 to change routing and rating practices for ported  
25 calls. If on the other hand the FCC would require

1 that or if you do, then the cost is appropriately  
2 considered an LNP cost.

3 The next point that I would ask you to focus  
4 on is the point of unresolved issues and how they  
5 will affect the costs of implementing LNP to the  
6 Petitioner's detriment. The porting interval, the  
7 wireless-to-wireline porting and the routing issues  
8 are all pending at the FCC as we sit here today.  
9 The resolution of these issues most likely will  
10 require changes in the implementation of LNP and  
11 will result in additional costs to Petitioners.  
12 Petitioners will be better able to know the costs  
13 of LNP and will be able to implement LNP more  
14 effectively if implementation is not required  
15 before important unresolved issues are resolved.

16 Finally, the evidence of Petitioners will also  
17 demonstrate that there is little, if any, demand  
18 for LNP in the various service territories of these  
19 Petitioners. What does this show us? It shows us  
20 that Petitioners have met the requirements and will  
21 meet the requirements of Section 251(f)(2).

22 Petitioners are 2 percent carriers. That's  
23 not disputed. Petitioners have demonstrated or  
24 will demonstrate significant cost of LNP and that  
25 creates a significant adverse economic impact on

1 users of telecommunications services in  
2 South Dakota and it imposes a requirement that is  
3 unduly economically burdensome.

4 Petitioners will demonstrate and have shown  
5 there are significant outstanding issues that  
6 further impact the cost of LNP. Petitioners have  
7 described or will describe to you the call routing  
8 problem where the wireless carrier does not have a  
9 direct connect which could impact the cost of LNP  
10 which makes local routing of calls to portable  
11 numbers technically infeasible. Petitioners will  
12 demonstrate there is little or no demand for LNP in  
13 their service territories. And in light of all of  
14 that, Petitioners will demonstrate that the cost  
15 and the implementation issues coupled with the lack  
16 of demand lead to the conclusion that LNP is not in  
17 the public interest.

18 So what are we asking? We are asking in all  
19 of the dockets that Petitioner's obligation to  
20 provide LNP be suspended at a minimum until  
21 unresolved issues, transport, porting intervals,  
22 wireless-to-wireline porting, are resolved by the  
23 FCC. In some cases in some of the dockets we will  
24 urge you to go beyond that. We will urge you that  
25 in some cases even aside from those unresolved

1 issues the costs are too high for the demand, and  
2 it's not sustainable to order those companies to  
3 implement LNP.

4 I think I would sum it up with a picture, if I  
5 could. If we look at the scales of justice or a  
6 teeter-totter, whichever you're more familiar with,  
7 I would stack on one side the issues that I have  
8 discussed today, the cost, the transport, and the  
9 unresolved issues, and on the other side I would  
10 balance Western Wireless and Midcontinent's  
11 arguments for competition, the necessity of LNP for  
12 competition, and probably also just the appeal of  
13 the idea of LNP.

14 And when you weigh the public interest with  
15 those factors in the balance I would suggest to you  
16 that our evidence will show that at this point in  
17 time the scales weigh decisively in favor of  
18 suspension or modification, and that's what we ask  
19 you to grant. Thank you.

20 MR. SMITH: Mr. Coit.

21 MR. COIT: Thank you. First I would  
22 like to thank the Commission staff and the  
23 Commission for arranging SDTA to present the  
24 testimony of its sole witness in this case out of  
25 order. I don't believe that we'll be in a



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1 position, because of the unavailability of our  
 2 witness we won't be in a position to present that  
 3 testimony immediately, and we appreciate the fact  
 4 that you've made adjustments to the schedule to  
 5 allow us to participate through testimony.  
 6 I would just like to state that SDTA concurs  
 7 and supports the comments made by Ms. Rogers, the  
 8 arguments that she's made, and also the specific  
 9 request for relief that she's made. I'd just like  
 10 to spend a little bit of time outlining the sort of  
 11 testimony that we will be presenting in this case.  
 12 We will be presenting our testimony through an  
 13 individual by the name of Steven Watkins. And  
 14 Steven Watkins is a special telecommunications  
 15 management consultant with the Washington, D.C.  
 16 law firm of Kraskin, Moorman & Cosson, which  
 17 provides legal and consulting services to  
 18 telecommunications services across the country.  
 19 Mr. Watkins has held a position with that firm  
 20 since 1996. He has approximately 28 years of  
 21 experience in the telecom industry that has been  
 22 devoted to providing consulting and regulatory  
 23 assistance to smaller independent  
 24 telecommunications firms throughout the  
 25 United States.

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1 And primarily his work includes providing  
 2 assistance to those companies in their analysis of  
 3 regulatory and industry issues, and as we know,  
 4 many of those issues have arisen since the 1996  
 5 Telecom Act that was enacted and very clearly the  
 6 issues that we're faced with today have arisen as a  
 7 result of that Act.  
 8 Prior to his current position Mr. Watkins  
 9 spent about 12 years with the National Telephone  
 10 Cooperative Association. There he provided work in  
 11 the area of research analysis and formulation of  
 12 policy and also just expert advice to the member  
 13 companies of NTCA on industry issues.  
 14 Mr. Watkins will, as part of his testimony,  
 15 try to give you some background as to what's going  
 16 on in the rest of the nation on the issues of LNP,  
 17 and very clearly from his testimony you'll see that  
 18 the issues that we're faced with today, as  
 19 Ms. Rogers indicated, are not isolated to  
 20 South Dakota.  
 21 The FCC's memorandum and opinion and order on  
 22 intermodal LNP which was released on November 10,  
 23 2003 failed to address some unavoidable issues that  
 24 are wrapped up into the provisioning of that  
 25 service. And particularly those issues related to

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1 calling scope differences and rate center  
 2 disparities between wireless and wireline  
 3 providers. And because those issues were not  
 4 addressed by the FCC, the FCC's intermodal order is  
 5 being challenged on different fronts, both at the  
 6 federal and state level.  
 7 There have been hundreds of LNP waiver filings  
 8 made across the country, and various national  
 9 organizations that represent both urban and rural  
 10 telecom companies throughout -- or landline LECs  
 11 including rural ILECs throughout the country have  
 12 initiated federal court proceedings challenging the  
 13 FCC's order. So very clearly we're dealing with  
 14 issues that have some significant consequence. If  
 15 they didn't, I don't think we would be seeing all  
 16 of that activity.  
 17 Mr. Watkins will go on to discuss the specific  
 18 criteria for reviewing suspension requests that are  
 19 found in the federal statute, Section 251(f)(2),  
 20 and also in the state code in 49-31-80. And he  
 21 will also, in talking about the FCC requirements,  
 22 address some different definitions that apply to  
 23 the provisioning of local number portability. He  
 24 will comment on the differences between service  
 25 provider portability and what is called location

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1 number portability.  
 2 And I would encourage the Commission to pay  
 3 close attention to that testimony because it's  
 4 important to understanding just what the  
 5 requirements are in providing local number  
 6 portability. There's a difference between service  
 7 provided portability and location number  
 8 portability. And understanding these terms and  
 9 these differences is necessary to have a clear  
 10 understanding of the rate center disparity issues  
 11 and local calling scope disparity issues that exist  
 12 between wireless and wireline providers. And those  
 13 issues are very critical to understanding the  
 14 difficulties in implementing LNP at this particular  
 15 point in time.  
 16 He will spend a considerable amount of time in  
 17 addressing the technical feasibility and undue  
 18 economic burden standards in talking about the  
 19 issue of transport. Ms. Rogers discussed that  
 20 issue in her opening comments, and that is a very  
 21 important issue. And some of the testimony is  
 22 devoted to the question of, you know, why is this  
 23 important at this time to wireless carriers, given  
 24 the -- what appears to be low demand on the part of  
 25 customers for local number portability, intermodal

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1 portability, moving a number from a wireline phone  
 2 to a wireless phone.  
 3 And it's our view that an attempt is being  
 4 made in this case to really go beyond the  
 5 provisioning of local number portability in the  
 6 service provider portability context and that is  
 7 allowing somebody at the same location to take a  
 8 number and move it to another service provider.  
 9 What appears to be happening here in this  
 10 proceeding is a push for what could be referred to  
 11 as location number portability. And we've had  
 12 proceedings before the Commission in the past that  
 13 have addressed what would have been termed virtual  
 14 NXX issues, where someone wants to take an NXX that  
 15 was assigned to one rate center and move it to a  
 16 rate center that is far removed from the current  
 17 area where that number is used.  
 18 And all wrapped up into those location number  
 19 portability issues are the transport issues. And  
 20 we feel that -- we believe that the reason there's  
 21 such a push at this point in time specifically by  
 22 Western Wireless is that they are trying to shift  
 23 transport responsibilities to ILECs and they are  
 24 also trying to establish an environment where they  
 25 can utilize basically virtual NXXs to bypass the

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1 current access network, force us to route calls  
 2 that were previously toll calls as local calls.  
 3 All of those issues are addressed in  
 4 Mr. Watkins' testimony and they are very critical  
 5 to this Commission understanding the cost, the  
 6 economic burdens, and the technical feasibility of  
 7 providing the location or local number portability  
 8 in today's environment looking at the different  
 9 networks that are there and the different calling  
 10 scopes. So we would just encourage the Commission  
 11 to consider the testimony very carefully and look  
 12 at those rate center disparity issues and local  
 13 calling scope issues carefully to put itself in a  
 14 position to make a fair decision. Thank you.  
 15 MR. SMITH: Mr. Wieczorek.  
 16 MR. WIECZOREK: Thank you,  
 17 Mr. Smith. Thank you, Commission. I'm not going  
 18 to go through what the testimony is going to show  
 19 in the next couple of days totally. I think  
 20 suffice it to say, the burden in this process lays  
 21 on the Petitioners. I think the evidence is going  
 22 to show clearly that the Petitioners have increased  
 23 their costs substantially over what is necessary to  
 24 provide local number portability. I take exception  
 25 to the argument that we are somehow trying to

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1 backdoor-in location portability. That is not what  
 2 is occurring here.  
 3 We're asking that the Petitioners provide LNP  
 4 as required under the statute because we do not  
 5 feel that they can meet their burdens here.  
 6 Ms. Rogers talked about some of the costs and  
 7 implied we don't contest many of the costs. I  
 8 would say there's a number of smaller costs that we  
 9 contest but the transport costs we contest as  
 10 totally unnecessary. It's as if the LECs in this  
 11 situation have bought a Rolls Royce -- are  
 12 proposing to buy a Rolls Royce system to do what a  
 13 used Chevy can do. Here is an existing structure  
 14 that can be utilized to render those transport  
 15 costs next to nothing in comparison to the hundreds  
 16 of thousands of dollars they're claiming they're  
 17 going to have to incur.  
 18 And I believe the evidence will clearly show  
 19 that's a viable alternative and they should follow  
 20 that viable alternative.  
 21 Finally, there's been some comments as to  
 22 points of interconnect as being a substantial part  
 23 of that transport cost. Those points of  
 24 interconnect at the level that they need them are  
 25 not necessary. Again, the existing infrastructure

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1 is such that there's a much easier fix to this. It  
 2 could be done in South Dakota.  
 3 It's interesting that in the testimony and in  
 4 the openings the argument is being made that  
 5 there's no demand for local number portability and  
 6 they're asking us to incur these costs but then  
 7 they turn it around and they say well, if there is  
 8 a lot of local number portability it's going to  
 9 increase our costs so you shouldn't allow it  
 10 either. They're trying to throw us into a Catch-22  
 11 situation. They're trying to have the Commission  
 12 buy into that Catch-22 situation, and I would ask  
 13 the Commission look through that and see the  
 14 duplicity of that argument. There is demand for  
 15 local number portability. It is in the consumers'  
 16 best interest. It can be readily done with the  
 17 existing infrastructure and our testimony is going  
 18 to show that. Thank you.  
 19 MR. SMITH: Mr. Gerdes.  
 20 MR. GERDES: Thank you, Mr. Smith.  
 21 Mr. Chairman, members of the Commission, very  
 22 briefly, Midcontinent would like you to know that  
 23 what we are talking about is something very  
 24 different from what other parties are talking -- or  
 25 have talked about and are talking about in this

Docket. We are talking about wireline-to-wireline local number portability as required and mandated by 251(b)(2). The FCC has not entered any other orders on that issue. That obligation exists now just as it existed when the '96 Act was passed. Many of the issues that have been mentioned do not apply to wireline-to-wireline number portability. Transport as an example. You've already heard testimony in the other Docket that indicates that for local number portability to exist on a wireline-to-wireline basis is significantly less in cost to the local exchange carrier.

The only other thing I'll ask you to keep in mind other than the significant difference between the issue that a CLEC has and the issue that a wireless company has is that remember, these incumbent local exchange carriers talk about how there's no demand for local number portability and they don't see it, but the demand comes to the CLECs. The demand does not come to the ILECs. The CLECs are the ones that are getting it. And I think you've heard some testimony in the other Docket that there is in fact significant demand for local number portability.

That's all I have.

MR. SMITH: Ms. Wiest.

MS. WIEST: Thank you. Commission staff has not yet taken a position on any of the LNP Dockets. However, based on our valuation of the prefiled testimony we have arrived at some initial thoughts with respect to the standards that the Commission has to apply in these cases.

One of the questions is whether the suspension is necessary to avoid imposing a requirement that is technically infeasible. Based upon our evaluation of the prefiled testimony, it's staff's belief that, no, it is not technically infeasible for any of the Petitioners to implement LNP. There is certainly costs associated with implementation and there appear to be routing and who pays issues that are not necessarily easy to resolve but it does appear that LNP can be implemented.

The more difficult questions we believe are posed by the remaining considerations; for example, is it necessary to avoid significant adverse economic impact on users. As you've heard, the FCC has authorized the companies to place a surcharge on their customers for LNP cost. Based on the cost studies submitted, the estimated impact on users can be considerable, but that brings up the

question just how accurate these cost studies are.

For example, one of the significant cost factors is transport. As you've heard, Western Wireless and the Petitioners have proposed cost estimates for transport that are based on two different methods of transporting calls. These two methods come up with costs that vary quite significantly. Other estimated costs also vary considerably and we expect these hearings will serve to validate or in some cases bring into question some of the costs.

But even if the costs can be estimated with a reasonable amount of certainty, I think the more difficult issue for the Commissioners will be what exactly is a significant adverse economic impact on a user. Is it \$5, \$10? I don't think that will be an easy question to answer.

Another standard is whether suspension is necessary to avoid imposing a requirement that is unduly economically burdensome. I think this standard implicates the telephone company itself. So the first question is how much of the expense will be borne by the customers either through the surcharge or as mentioned by some of the managers possibly also increase in local rates and what

expense may the company itself choose to take on. Whatever that expense turns out to be, the question remains whether it reaches the standards of unduly economically burdensome.

The final standard is the one the Commission is certainly used to dealing with and that is the public interest standard. Local number portability is certainly a very useful tool for fostering competition but is it worthwhile to wait until some of those unresolved issues are resolved? Will that impact some of the costs? And if the demand is low does it need to be implemented right away? On the other hand, isn't it safe to expect that demand for LNP will continue to grow and shouldn't rural customers have that option available to them?

These are the questions that we as staff would like to explore during these hearings and then following the hearings we will be able to make a recommendation to the Commission. Thank you.

MR. SMITH: Ms. Rogers, are you ready to begin?

MS. POLLMAN ROGERS: Yes, sir. Thank you. We would call Jerry Heiberger as our first witness.

JERRY HEIBERGER,

1 called as a witness, being first duly sworn in the  
2 above cause, testified under oath as follows:  
3 MS. POLLMAN ROGERS: I will defer to  
4 Mr. Dickens to perform the direct of this witness.

5 DIRECT EXAMINATION

6 BY MR. DICKENS:

7 **Q** Mr. Heiberger --

8 MR. DICKENS: Just as a point of  
9 clarification from the Chair, absent or directed to  
10 the contrary in the interest to kind of move things  
11 along we'd propose to have our witness sponsor the  
12 direct and rebuttal testimony at the same time  
13 unless you'd like to follow --

14 MR. SMITH: That would be my  
15 recommendation unless there's objection from one of  
16 the parties.

17 MR. WIECZOREK: I have no objection,  
18 Your Honor.

19 MR. GERDES: No objection.

20 MS. WIEST: No objection.

21 MR. SMITH: Please proceed.

22 MR. DICKENS: Thank you.

23 **Q** Mr. Heiberger, I'd like to show you copies of Exhibit 1  
24 and Exhibit 2. I'd like to show you Exhibits 1 and 2  
25 which are your direct prefiled testimony in this

1 proceeding and your rebuttal testimony. I'll hand you  
2 these and have you confirm that they appear to be the  
3 same document as your prefiled testimony.

4 (Witness examines documents)

5 **A** Yes. I would agree this is my direct prefiled and my  
6 rebuttal testimony, Exhibits 1 and 2.

7 **Q** I forgot to ask you, would you state your name and  
8 address for the record.

9 **A** I'm sorry. My name is Jerald or Jerry J. Heiberger.  
10 I'm a resident of Clear Lake, South Dakota.

11 **Q** And this testimony was prepared by you or under your  
12 supervision?

13 **A** That's correct.

14 **Q** Is the testimony true and correct to the best of your  
15 knowledge?

16 **A** It is.

17 **Q** Are there any additions or corrections?

18 **A** Not to my knowledge, no.

19 **Q** If I were to ask you the same questions that are  
20 contained in your prefiled testimony labeled Exhibit 1  
21 and your rebuttal testimony labeled Exhibit 2, would  
22 your answers be the same today?

23 **A** Yes, they would.

24 MR. DICKENS: I would like to move  
25 the admission of Exhibits 1 and 2 and tender

1 Mr. Heiberger for cross-examination.

2 MR. WIECZOREK: No objection.

3 MR. GERDES: No objection.

4 MS. WIEST: No objection.

5 **Q** Before I tender you, would you provide a summary of  
6 your testimony?

7 **A** Sure. I'd like to show through my testimony and  
8 address that if local number portability is required at  
9 ITC that the projected costs will significantly impact  
10 our members of our telephone cooperative. Local number  
11 portability at this point in time that I see is not a  
12 high demand type of a service that is being requested  
13 by our customers. I'm only aware of actually one  
14 customer that has contacted our office and inquired  
15 about it and made the statement that they would be  
16 interested in possibly using local number portability.

17 I think it is a very poor bargain for our  
18 members, many of them being elderly, in our ITC  
19 exchanges here in South Dakota. I believe it makes  
20 much more sense to wait for clarification on many of  
21 the key issues that were already discussed by both  
22 Ms. Rogers and Mr. Coit. Those, of course, being  
23 certainly the point of interconnection to the carriers,  
24 what are the porting intervals going to be. And I  
25 think it would just make a lot more sense to wait until

1 some of these questions are resolved in a manner that  
2 would not be so economically burdensome to ITC's  
3 customers.

4 **Q** Does that conclude your summary?

5 **A** Yes.

6 MR. DICKENS: Now Mr. Heiberger is  
7 available for cross-examination.

8 MR. SMITH: I'm going to admit ITC  
9 Exhibits 1 and 2. Mr. Coit, do you have any  
10 cross-examination?

11 MR. COIT: No cross.

12 MR. SMITH: Mr. Wieczorek?

13 MR. WIECZOREK: I do have the short  
14 straw on this side of the table so I'll go first.

15 CROSS-EXAMINATION

16 BY MR. WIECZOREK:

17 **Q** Mr. Heiberger, you said your prefiled testimony was put  
18 together under your supervision. Did they send you the  
19 questions and you wrote out the answers? Is that how  
20 that worked?

21 **A** For the most part, yes.

22 **Q** And I noted in your prefiled testimony that you  
23 discussed some of the cost exhibits attached to  
24 Mr. DeWitte's testimony.

25 **A** Yes.

1 Q So you reviewed his cost exhibits?  
 2 A Certainly.  
 3 Q And his prefiled testimony?  
 4 A Yes.  
 5 Q There's one thing that I'd like to get clarified right  
 6 off the bat. You were in the room when your counsel  
 7 said that you were going to claim that LNP is  
 8 technically infeasible?  
 9 A Yes.  
 10 Q Okay. Do you agree with her statement?  
 11 A If technically --  
 12 MS. POLLMAN ROGERS: Excuse me. I'm  
 13 going to object to that question as a misstatement  
 14 of my remarks.  
 15 MR. SMITH: Sustained.  
 16 Q All right. Let me ask it this way: You were served  
 17 Interrogatories in this proceeding where it was  
 18 inquired as to whether you were going to contend that  
 19 local number portability was infeasible. Do you  
 20 remember that, technically infeasible?  
 21 A Yes.  
 22 Q Okay. Just for your reference I'll show you question  
 23 number 27 to the Interrogatories and that's --  
 24 MS. POLLMAN ROGERS: Excuse me.  
 25 Could we clarify --

1 MR. WIECZOREK: First set.  
 2 Q Dated May 10, 2004 and that bears your signature;  
 3 correct?  
 4 A That's correct.  
 5 Q And in response to the question, "Do you contend that  
 6 requiring you to provide local number portability would  
 7 result in imposing a requirement that is technically  
 8 infeasible, and if you so contend explain in detail how  
 9 you reached the conclusion identifying all documents,  
 10 opinions, or other materials you used in reaching this  
 11 conclusion," how did you respond?  
 12 A It states "No" there.  
 13 Q It just states "No"?  
 14 A Yes.  
 15 Q And you're not changing your opinion today, are you?  
 16 A I guess technically infeasible, if included in all of  
 17 John's costs, then yes, it would be something that  
 18 would be infeasible for my customers.  
 19 Q And this might just boil down to confusion of standards  
 20 but what you're basically saying is it's too expensive?  
 21 A Yes.  
 22 Q Technically it could be done with enough money.  
 23 A That's correct.  
 24 Q Okay. How long have you known about the requirement  
 25 for local number portability was going to be coming

1 along?  
 2 A Last summer to last fall in 2003 is when it became more  
 3 of an industry issue that we began discussing.  
 4 Q And is that when you started this investigation and  
 5 research that you talked about in the earlier Docket  
 6 that you talked about in your prefiled testimony?  
 7 A That's correct.  
 8 Q And I believe you described it as you did a good-faith  
 9 investigation as to the costs to implement LNP?  
 10 A We began looking at what it was going to take to put  
 11 LNP services in and all of the other processes and  
 12 procedures of implementation of the LNP service, that's  
 13 correct.  
 14 Q In implementing the LNP did you ever contact Western  
 15 Wireless concerning what could be done to lower costs  
 16 for implementation of LNP?  
 17 A No.  
 18 Q Now Western Wireless you would agree sent you a BFR in  
 19 November of last year; correct?  
 20 A I don't know for sure on the date. If you can refer me  
 21 to a page or document.  
 22 Q I've got a copy and I'll go ahead and mark it as --  
 23 MR. WIECZOREK: We've premarked for  
 24 the record Western Wireless 1 already so I'll mark  
 25 this as Western Wireless 2.

1 (Exhibit WWC 2 is marked for identification)  
 2 Q I'll show you what has been marked as Western Wireless  
 3 Exhibit No. 2. Do you remember receiving that letter?  
 4 A I do.  
 5 Q And probably the easiest way -- I'm going to also mark  
 6 your response as 3.  
 7 (Exhibit WWC 3 is marked for identification)  
 8 Q And your response to the BFR was that you were  
 9 currently reviewing the request and would respond  
 10 further when your review was complete. Did you ever  
 11 respond to Western Wireless?  
 12 A Once we determined what the cost and everything that  
 13 was going to be involved with the whole process was  
 14 going to be, we determined it was in our best interest  
 15 for the members of our cooperative to go forward with  
 16 filing a petition for suspension or modification.  
 17 Q Okay.  
 18 A I also listed there on my letter, "If you have any  
 19 questions concerning the matter, please do not hesitate  
 20 to contact me."  
 21 Q And Western Wireless did contact you, didn't they?  
 22 A I don't recall, to be honest with you.  
 23 Q Okay.  
 24 MR. WIECZOREK: Mark as Western  
 25 Wireless 4, please.

1 (Exhibit WWC 4 is marked for identification)

2 Q Do you remember receiving that letter, Western Wireless

3 Exhibit No. 4?

4 A I don't recall specifically, to be honest with you.

5 Q Okay. You don't recall receiving this letter in the

6 proposed agreement they had for LNP?

7 A Which letter specifically?

8 Q Exhibit No. 4, the December letter.

9 A I vaguely remember it, yes.

10 Q Okay. And you'll see that they invite you to contact

11 them at the bottom of that letter if you have any

12 questions or any thoughts on implementation of LNP;

13 correct?

14 A Yes. I do see that there.

15 Q You never contacted them.

16 A No. We continued our investigation.

17 Q Okay. So just so I have it straight, your thorough

18 good-faith investigation did not include contacting

19 Western Wireless who is requesting local number

20 portability?

21 A I think we felt we could figure out what was going to

22 be needed in regards to deploying service.

23 Q Okay. Now the deployment of the service that you have

24 proposed requires point of interconnection from every

25 one of your switches essentially to Western Wireless;

1 correct?

2 A That is based on today's network, yes, and how we have

3 it deployed today.

4 Q Well, that's what your costs are based on; correct?

5 A No. Currently -- well, our costs are -- to answer the

6 question, yes, our costs are based on that type of a

7 deployment, but we currently have three T-1s from

8 Western Wireless into three of our exchanges right now

9 and one from Verizon into one of our exchanges.

10 Q And that would lower your cost on what you'd have to

11 expend to make numbers portable for Western Wireless?

12 A I guess I don't know. Depending upon what the rulings

13 come out of the Commission or the FCC, I would imagine,

14 who's going to pay for what transport costs.

15 Q But you would agree with me that the transport

16 arrangement that's been recommended where you get your

17 costs from that you've submitted here to the Commission

18 envisions a point of interconnect from every one of

19 your switches to Western Wireless and other cell

20 providers; correct?

21 A To my knowledge that's correct, yes. John DeWitte

22 would be the one to talk more on the cost issues.

23 Q Yeah. But this is all part of your investigation?

24 A Yes.

25 Q And that's how you understand --

1 A Yes, it is.

2 Q I'm sorry. Who came up with that approach?

3 A I think through conversation with consultants and ITC

4 staff members, it was based on the way that the network

5 is deployed today and determined our costs on that

6 basis.

7 Q Do you understand -- well, have you reviewed the

8 testimony of anybody besides Mr. DeWitte in this matter

9 and Mr. Williams who you reference in your rebuttal?

10 A No, I did not.

11 Q Okay. But as far as Mr. DeWitte, his last rebuttal

12 testimony was a joint rebuttal testimony on behalf of

13 all the companies he's testifying for, did you know it

14 then?

15 A I guess I did not know that for sure.

16 Q Okay. In your conversations with any of your

17 contemporaries with the other Petitioners was it your

18 understanding they're all proposing the same type of

19 arrangement to provide local number portability?

20 A I'm not sure what they're all doing. We've been busy

21 with just trying to research our own costs.

22 MR. WIECZOREK: If I could, I'd move

23 for the admission of 2 through 4 at this time so I

24 don't have to do them all at the end.

25 MS. POLLMAN ROGERS: No objection.

1 MR. SMITH: Western Wireless

2 exhibits -- is there an objection from any other

3 party?

4 MR. GERDES: No objection. I was

5 waiting for Mr. Coit. No objection.

6 MR. COIT: No objection.

7 MR. SMITH: Western Wireless

8 Exhibits 2 through 4 are admitted.

9 (Exhibit WWC 5 is marked for identification)

10 MR. WIECZOREK: This would be

11 Western Wireless 5.

12 Q Mr. Heiberger, the routing proposed by Interstate as

13 we've discussed would require an interconnect from

14 every one of your host or end offices to each cell

15 company. You understand that?

16 A Yes.

17 Q And this essentially -- Mr. DeWitte proposed six

18 different companies in getting your cost analysis?

19 A That's my understanding.

20 Q He's listed three. Do you know what other companies --

21 have the other companies sent you BFRs?

22 A Not at this time. I guess I'm not sure who the other

23 companies are, RCC, Nextel. I forget the other one.

24 Q Well, RCC isn't even licensed throughout your entire

25 area, are they?

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1 A I believe they do not cover maybe a few of our south  
2 exchanges.  
3 Q Okay. Look at page 2 of that document, that exhibit.  
4 A Okay.  
5 Q Now you've read Mr. Williams' testimony?  
6 A Yes.  
7 Q And you understand from Mr. Williams' testimony this is  
8 essentially the proposal that Western Wireless is  
9 putting forth for routing; correct?  
10 A To tandem through some of the offices, yes.  
11 Q Okay. Now this -- I have a couple of questions on this  
12 and maybe you can clarify. Mr. DeWitte's testimony,  
13 and this is only if you know. I can always ask this of  
14 Mr. DeWitte. But his install cost for these point of  
15 interconnects is 576,000 in both your petition and his  
16 direct but however it jumps to 720,000 in his rebuttal  
17 testimony with no explanation. Do you know why that  
18 is?  
19 A I do not.  
20 Q Okay.  
21 A I'd prefer he answer that question.  
22 Q Certainly. And then there's a monthly cost of \$165,870  
23 and that's your monthly charge for every one of those  
24 points of interconnect; correct?  
25 A That's my understanding yes, based on what he put

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1 together for us.  
2 Q In doing this thorough good-faith investigation, is  
3 this the most cost-effective means you could come up  
4 with?  
5 A Based on today's network, yes, and how it's deployed.  
6 Q Okay. You guys go over into Minnesota; right? You  
7 have exchanges into Minnesota?  
8 A That's correct.  
9 Q And your network in Minnesota is substantially the same  
10 as it is in South Dakota?  
11 A We have two offices, two exchanges in Minnesota.  
12 Q But your exchanges are set up the same way; right?  
13 A Yes, it is. Yes, they are.  
14 Q Technically not much difference -- well, not any  
15 difference between Minnesota and South Dakota?  
16 A Other than where they've got to terminate calls to, I  
17 would imagine, or connect to.  
18 Q You're a member in South Dakota of SDTA; correct?  
19 A That's correct.  
20 Q And SDTA, the rural LECs use SDTA to help keep their  
21 costs down, don't they? Sometimes they use SDTA to do  
22 a joint filing or even negotiate interconnect  
23 agreements with one carrier?  
24 MS. POLLMAN ROGERS: I'm going to  
25 object to that question as beyond the scope of

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1 direct and rebuttal testimony.  
2 MR. SMITH: Overruled.  
3 Q Isn't it true that you used SDTA to negotiate your  
4 interconnect agreements with Western Wireless?  
5 A That's correct.  
6 Q Okay. And you guys do that to keep your costs down;  
7 right?  
8 A Yes.  
9 Q Okay. And you're also a member in Minnesota of a  
10 similar organization called Minnesota Independent  
11 Coalition, sometimes called MIC?  
12 A That's correct.  
13 Q And that's a similar organization to Mr. Coit's  
14 organization here in South Dakota; correct?  
15 A Very similar, yes.  
16 Q And what MIC does is they do many of the same things,  
17 they might negotiate an Interconnection Agreement with  
18 Western Wireless on behalf of all of its members in  
19 Minnesota; right?  
20 MS. POLLMAN ROGERS: Could I please  
21 have a continuing objection to this line? This is  
22 way beyond the scope of his direct and rebuttal  
23 testimony.  
24 MR. SMITH: You may have an  
25 objection. However, I'm going to overrule it and

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1 let him go on for a little while and hopefully,  
2 Talbot, you'll bring it around to something we're  
3 talking about here.  
4 MR. WIECZOREK: Okay. I'll get to  
5 it. I'll get to it right now.  
6 (Exhibit WWC 6 is marked for identification)  
7 Q That's Western Wireless number 6. Could you just take  
8 a quick look through that, Mr. Heiberger.  
9 (Witness examines document)  
10 A Okay.  
11 Q You note on the first page of that document that's a  
12 public document that's been filed with the Minnesota  
13 Public Utilities Commission?  
14 A That's correct.  
15 Q Now before we get into that document I'd like to ask  
16 you just a couple more questions about that Interstate  
17 filing and the numbers that are on Exhibit No. 5. Your  
18 install costs, and I'm going to ask Mr. DeWitte why  
19 it's 720 in his recent -- but let's just use his old  
20 numbers, the 576. That's what you'd pay out the first  
21 year just to install all of those points of  
22 interconnect; correct?  
23 A I would have to defer that to John, Mr. DeWitte.  
24 Q You understand that's your install costs as represented  
25 on that?

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- 1 A Yes.
- 2 Q And then Mr. DeWitte has set forth a monthly cost of
- 3 approximately 165,000; correct?
- 4 A That's correct.
- 5 Q So if that's a monthly cost, in the first year alone
- 6 you would spend close to \$2 million just to service
- 7 LNP; correct?
- 8 A That would be correct.
- 9 Q And you pride yourself on being efficient and
- 10 cost-effective, don't you?
- 11 A That's correct.
- 12 Q Okay. Now let's take a look at Western Wireless No. 6.
- 13 Now just as a point of reference for your ease, there's
- 14 actually fax page numbers at the top, and I'm going to
- 15 refer to those even though it starts with page 2.
- 16 Number 1 would have been a fax cover sheet, when we go
- 17 to pages, if that's all right?
- 18 A Sure.
- 19 Q If you look and go to first page number 20, it's
- 20 Exhibit 1 to this public filing, and on the left-hand
- 21 side about three-fourths of the way down it lists
- 22 Interstate Telecom Co-op, Inc., Minnesota. That's your
- 23 company, isn't it?
- 24 A It is but we're not to be listed in this filing.
- 25 Q But you are listed in this filing; correct?

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- 1 A It's listed here but we're not supposed to be.
- 2 Q So let's go back to the first page again of the
- 3 document. The first page of the document actually
- 4 represents that the member companies of Minnesota
- 5 Independent Coalition listed on Exhibit 1 submit this
- 6 petition. That's what this petition says; correct?
- 7 A That's correct.
- 8 Q Okay.
- 9 A It's to my knowledge we weren't supposed to be in this
- 10 Docket.
- 11 Q Well, let's go to page 9 of this exhibit.
- 12 MS. POLLMAN ROGERS: I'm going to
- 13 continue to object to this line of questioning on
- 14 several grounds. Number one, it is beyond the
- 15 scope of the prefiled testimony in this Docket.
- 16 Number two, the witness has just testified to his
- 17 knowledge he was not to be included in this
- 18 document, and, number three, it's not relevant as
- 19 to what's happening in Minnesota so I object.
- 20 MR. WIECZOREK: Frankly, I think
- 21 it's very relevant. This is cross-examination. He
- 22 has testified that -- I'm sorry. He has testified
- 23 that they can't afford this, that it's too
- 24 expensive, that they have to follow this program to
- 25 get it done right. And I think I'm entitled to

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- 1 cross-examine him how where his name, his company
- 2 name appears in a filing in Minnesota, whether he
- 3 says it's supposed to be there or not, it's
- 4 represented by MIC council that he's supposed to be
- 5 on this filing in this public document and I think
- 6 I'm entitled to cross-examine him on the difference
- 7 between what they're doing in Minnesota and what
- 8 they say is viable in Minnesota and what they're
- 9 trying to tell this Commission is not viable here.
- 10 MR. SMITH: The objection is
- 11 overruled.
- 12 Q Go to page 9 using the fax numbering up at the top.
- 13 Have you found it?
- 14 A Yes.
- 15 Q The last paragraph -- not full paragraph but that
- 16 begins on that page -- well, let's preface this way.
- 17 You said you've done a full investigation on what's the
- 18 most cost-effective manner to do local number
- 19 portability; correct?
- 20 A To the best of our abilities, yes.
- 21 Q Okay. Would you please read out loud the first two
- 22 sentences in that paragraph?
- 23 A Starting with, "The companies" --
- 24 Q Yes.
- 25 A -- "using centralized equal access have analyzed and

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- 1 investigated how calls to local numbers ported to CMRS
- 2 providers could be routed, for those networks where
- 3 there are neither direct connections nor EAS
- 4 connections, without being rated as toll calls. The
- 5 companies believe this can be accomplished efficiently
- 6 and cost-effectively if such calls are routed via the
- 7 same facilities used by the CMRS providers to deliver
- 8 their traffic to the companies and at rates comparable
- 9 to TELRIC rates charged by Qwest to CMRS providers for
- 10 the same service."
- 11 Q Now if we look back at Exhibit No. 5, the second page.
- 12 A Okay.
- 13 Q The Western Wireless proposed routing, that is the
- 14 routing -- that routing as exists on page 2 of
- 15 Exhibit 5 is the same type of routing they're
- 16 discussing in that section of the MIC petition you just
- 17 read, isn't it?
- 18 A I believe so.
- 19 Q And the companies -- and here they're referring to
- 20 companies and you're listed on Exhibit 1 and those are
- 21 the companies that this petition has been filed for,
- 22 whether you contest you should have been included or
- 23 not, it says those companies feel that local number
- 24 portability can be accomplished effectively and cost --
- 25 excuse me, companies believe that local number



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1 portability, and I'm going to quote "can be  
2 accomplished effectively and cost efficiently" using  
3 that type of routing, that type being page 2 of Exhibit  
4 5; correct?  
5 A It appears so, yes.  
6 Q I'd like you to go back one page on that document.  
7 Excuse me, on the Order, No. 6. The paragraph  
8 that's --  
9 A Page 6? I'm sorry.  
10 Q No. Exhibit 6, page 8 using the fax pages.  
11 A Page 8. Exhibit 6, page 8?  
12 Q Correct.  
13 A Okay.  
14 Q The middle paragraph on that page, I'd like you to read  
15 that middle paragraph out loud, please.  
16 A "Companies have been diligently working to put in place  
17 the many facility upgrades and contractual arrangements  
18 needed to support wireless LNP. In doing so they have  
19 also attempted to address a critical issue in wireless  
20 LNP implementation which the FCC has not yet resolved:  
21 How can calls be routed and rated local when the CMRS  
22 provider has no point of interconnection in the LEC's  
23 network? The FCC requires that ported numbers remain  
24 rated to their original rate center even while the  
25 routing of calls will change when a number is ported.

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1 However, in the absence of direct connections, very  
2 frequently the only facilities available to the rural  
3 companies in order to route calls to numbers ported to  
4 a CMRS provider are access tandem trunk facilities."  
5 Q And you would agree that last sentence that's the same  
6 here in South Dakota is that there's an absence of  
7 direct connections and the facilities available are the  
8 rural companies to route calls to the numbers ported to  
9 a CMRS provider that exists today are the access tandem  
10 trunk facilities; correct?  
11 A So you're talking about the trunk facilities to Qwest  
12 which are one-way?  
13 Q Yes. They're one-way in Minnesota, aren't they?  
14 A They're one-way in Minnesota at this time, yes.  
15 Q Right. They're one-way in South Dakota right now,  
16 aren't they?  
17 A That's correct.  
18 Q Okay. And you understand this MIC filing all they're  
19 asking for is Qwest make those two-way trunks; correct?  
20 A With reduced rates for transiting, as I understand it.  
21 Q Right.  
22 A But I'm not to be involved in that filing.  
23 Q Yeah. But MIC thinks this is the most cost-effective,  
24 efficient means in which to route LNP in Minnesota;  
25 correct?

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1 A As I understand it, yes.  
2 Q And let's address that issue that you said they want a  
3 better price. If you go to page 6 -- excuse me, page  
4 10 on the fax page, the bottom paragraph, the last part  
5 of the page, why don't you just read that to yourself  
6 quick.  
7 (Witness examines document)  
8 CHAIRMAN SAHR: Mr. Wieczorek, last  
9 full paragraph or last partial?  
10 MR. WIECZOREK: Last partial. I'm  
11 sorry.  
12 A Okay.  
13 Q Are you finished with that?  
14 A Okay.  
15 Q Okay. So you'd agree that at least represented by MIC  
16 to Minnesota Public Utilities Commission is essentially  
17 that the price differential is essentially nine-tenths  
18 of a cent versus 1.6 of a cent; correct?  
19 A Correct.  
20 Q And if this -- let's talk about making an access tandem  
21 two-way with Qwest. What would that cost?  
22 A I guess I'm not sure.  
23 Q It doesn't have to be perfect. Just give me a range.  
24 MS. POLLMAN ROGERS: I object to  
25 that. It's asked and answered. He doesn't know.

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1 MR. SMITH: Sustained.  
2 Q You're not contending to this Commission that making  
3 access tandem two-way costs over a half a million  
4 dollars, are you?  
5 MS. POLLMAN ROGERS: Same objection.  
6 He's answered the question.  
7 MR. SMITH: Do you know?  
8 THE WITNESS: I don't know what it  
9 would cost for sure.  
10 MR. SMITH: Sustained.  
11 Q I'll ask it this way and see if it draws an objection.  
12 Give me a range. Do you know what range it would be  
13 in?  
14 A No.  
15 Q Well, you said you performed an in-depth investigation  
16 as to how to provide LNP and now you're sitting here  
17 telling this Commission you haven't even talked to  
18 Qwest about what it would cost to make a tandem  
19 two-way?  
20 A That's correct.  
21 Q Would it surprise you if that cost is less than \$5,000?  
22 A I really don't know what it would cost in all of our  
23 switches to make things two-way.  
24 Q Okay. You'd only have to do the access tandem two-way,  
25 the same way you're already routing your traffic to

1 Western Wireless; right? You don't have to make every  
 2 tandem two-way, only the ones Western Wireless is  
 3 routing traffic to --  
 4 A I believe -- I guess I don't know for sure. I believe  
 5 that's correct.  
 6 Q Okay. Let's just assume it's \$5,000 to make that  
 7 switch two-way. You'd agree with me that's a much more  
 8 cost-effective way than spending \$576,000 to install  
 9 points of interconnect between every cell provider who  
 10 might send you a BFR, wouldn't you agree?  
 11 MS. POLLMAN ROGERS: I'm going to  
 12 object to that. There's no foundation for that  
 13 question to this witness.  
 14 MR. WIECZOREK: I'm asking a  
 15 hypothetical.  
 16 MS. POLLMAN ROGERS: Lack of  
 17 foundation.  
 18 MR. SMITH: I think it was stated as  
 19 a clear hypothetical. To the extent that it's  
 20 hypothetical, it's overruled.  
 21 A Could you repeat it again.  
 22 Q I'm sorry. You would agree assuming your costs would  
 23 only be \$5,000 to make that access tandem two-way that  
 24 that would be much more cost-effective to make that  
 25 access tandem two-way than to spend \$575,000 on

1 installing points of interconnect between every one of  
 2 your switches and six cellular companies which are  
 3 hypothetical?  
 4 A Yeah. We based our costs off of the way the network  
 5 was employed currently.  
 6 Q Yeah. That's an interesting statement because you said  
 7 you read Mr. DeWitte's testimony where he says  
 8 essentially, well, we don't have that agreement with  
 9 Qwest so Western Wireless's routing won't work because  
 10 there's no agreement. Do you remember that testimony?  
 11 A I don't.  
 12 Q All right. I'll save that for Mr. DeWitte.  
 13 Essentially if you had dual access tandem then your  
 14 monthly recurring costs would only be your permanent  
 15 use charge; correct?  
 16 A Getting into a lot of technical stuff I would defer to  
 17 John DeWitte on.  
 18 Q So you're saying you don't know?  
 19 A I would prefer he would answer the question.  
 20 Q But I'm asking you so if you know, you have to answer.  
 21 A No.  
 22 Q Do you understand that?  
 23 A I do not know.  
 24 Q Well, you said in your rebuttal testimony that some of  
 25 the numbers that Mr. Williams used and some of the

1 proposals Mr. Williams used were in bad faith. You  
 2 used that term "bad faith." Do you recall that?  
 3 A Could you direct me to those pages?  
 4 Q Sure. It's your rebuttal testimony, which is 2 or 3.  
 5 MS. POLLMAN ROGERS: Exhibit 2.  
 6 Q Exhibit 2. Not Western Wireless's but your Exhibit 2.  
 7 If you look at page 2, line 12, you're talking about  
 8 the way that Western Wireless is proposing to route  
 9 direct traffic, which you've testified is the same way  
 10 that MIC is saying is the most cost-effective way in  
 11 Minnesota, but at line 12 you say that that proposal is  
 12 really a bad-faith attempt to change the agreement  
 13 between the parties. Do you see that?  
 14 A Yeah. We're talking about the Interconnection  
 15 Agreement, as I understand it.  
 16 Q Uh-huh.  
 17 A Uh-huh.  
 18 Q Well, you're talking in that answer about Western  
 19 Wireless's response to use the traffic terminating --  
 20 to use the interexchange carrier for the traffic  
 21 terminating being a bad-faith negotiation tool?  
 22 A It's my understanding traffic is part of the  
 23 Interconnection Agreement.  
 24 Q Well, so are you saying that you went back and just  
 25 modified the agreement and renegotiated the agreement

1 that you would provide LNP under the routing proposed  
 2 by Western Wireless in this testimony?  
 3 A No. I'm just stating that as part of the  
 4 Interconnection Agreement that we have in place right  
 5 now.  
 6 Q Let's go back to Exhibit No. 6 which is still in front  
 7 of you there. Go to page 11 as the fax numbers are on  
 8 the top. This is what the companies are requesting,  
 9 MIC's requesting the companies, at least MIC and its  
 10 attorneys represent you're one of those companies.  
 11 That last partial paragraph, could you read that first  
 12 sentence that sets forth what relief they're requesting  
 13 in Minnesota?  
 14 A "The companies anticipate that if the scope of  
 15 negotiations are narrow as requested and proceed on the  
 16 basis of nondiscriminatory rates, these matters could  
 17 be completed by July 30, 2004".  
 18 Q The next sentence, please.  
 19 A "This is an extension of 67 days from the May 24 WLN  
 20 implementation date."  
 21 Q Now you're actually asking for suspension for a minimum  
 22 of six months; correct?  
 23 A That's correct.  
 24 Q But in Minnesota they can do it in a much shorter time?  
 25 A Well, our suspension in Minnesota gives us six months

1 also. We have our own individual suspension over here.  
 2 That's why we're not supposed to be party to the  
 3 proceedings.  
 4 Q But your name appears in the MIC proceedings?  
 5 A I don't know why or how it does.  
 6 Q And technologically what Western Wireless is proposing  
 7 is what the MIC proceedings is proposing; correct?  
 8 A To my understanding at this time, yes.  
 9 Q Okay. Will you go to page 13 of that exhibit by the  
 10 fax numbers. Now if you go to the bottom paragraph  
 11 it's a partial paragraph, could you read the second  
 12 sentence in it, please.  
 13 A "Companies have sought to develop a way of routing  
 14 calls to CMRS-ported numbers which is technically  
 15 sound, efficient, and not unduly economically  
 16 burdensome."  
 17 Q Okay. So you would agree this is a conclusion that MIC  
 18 has reached that porting numbers the way Western  
 19 Wireless has proposed is technically sound, efficient,  
 20 and not unduly economically burdensome?  
 21 A If the MIC proposal is exactly what Western Wireless is  
 22 proposing then yes, I would.  
 23 Q Okay. Turn to the next page in that same exhibit.  
 24 A Page 14?  
 25 Q Yes. That first full paragraph starting with the

1 second sentence, could you read the second sentence,  
 2 please?  
 3 A Where it starts "As noted"?  
 4 Q No. Where it says "The companies." The first full  
 5 paragraph, page 14. I'll just show it to you. I'm  
 6 asking you to start with the second sentence.  
 7 A "Companies could not reasonably be expected to pursue  
 8 installation of direct trunks to CMRS providers as a  
 9 method of traffic routing, when facility costs are so  
 10 high and it is unknown who will bear the costs."  
 11 Q What they're talking about is the type of routing  
 12 proposal you submitted to this Commission; correct?  
 13 A Yes.  
 14 Q And that's what MIC calls -- they refer to that routing  
 15 type of situation as so high that it's essentially  
 16 unreasonable; correct?  
 17 A Yes.  
 18 Q Okay. That next sentence starting with "Rather," could  
 19 you read that next sentence?  
 20 A "Companies have focused" --  
 21 MS. POLLMAN ROGERS: Excuse me a  
 22 minute. At this point I'm going to interpose  
 23 another objection but could I please ask the  
 24 witness a couple of questions for the purposes of  
 25 objection?

1 MR. SMITH: Please proceed.  
 2 MS. POLLMAN ROGERS: Mr. Heiberger,  
 3 were you to your knowledge a party to this action?  
 4 THE WITNESS: I knew my name was  
 5 listed on this thing but I talked to legal counsel  
 6 in Minnesota and said, What am I doing on that, and  
 7 they said, Well, let's see what we've got to do to  
 8 get it off beings I already have a suspension over  
 9 there.  
 10 MS. POLLMAN ROGERS: In fact, you  
 11 did petition separately and on your own for a  
 12 petition in a different Docket than this in  
 13 Minnesota; is that correct?  
 14 THE WITNESS: That's correct.  
 15 MS. POLLMAN ROGERS: To your  
 16 knowledge they were taking what steps they could to  
 17 remove you from this Docket?  
 18 THE WITNESS: That's my  
 19 understanding.  
 20 MS. POLLMAN ROGERS: Did you follow  
 21 or in any way participate in these proceedings?  
 22 THE WITNESS: I received the  
 23 document and read this document.  
 24 MS. POLLMAN ROGERS: That's when you  
 25 called and requested to be withdrawn?

1 THE WITNESS: Yeah. I got ahold of  
 2 legal counsel over there.  
 3 MS. POLLMAN ROGERS: I'm going to  
 4 object to the continued references to this Docket  
 5 with this witness because he was not knowingly a  
 6 party to it, asked to be withdrawn and he had his  
 7 own Docket and filing in Minnesota separate from  
 8 this so this does not affect him.  
 9 MR. WIECZOREK: If I may.  
 10 MR. SMITH: Response.  
 11 MR. WIECZOREK: He's already  
 12 testified that MIC's an equivalent of SDTA. SDTA  
 13 is here. He's a member of MIC. The information  
 14 being provided by MIC is directly opposite of what  
 15 they're having this Commission try to believe and I  
 16 think that I'm eligible to cross-examine him and  
 17 I'm eligible to cross-examine any specific cost  
 18 expert that's been to Minnesota or does work in  
 19 Minnesota on this and I'm entitled to cross-examine  
 20 using these documents anybody who's a member of MIC  
 21 quite frankly.  
 22 MR. SMITH: Well, if he's not a  
 23 party to the Docket, it isn't a document that  
 24 pertains to him. Is that --  
 25 CHAIRMAN SAHR: May I ask

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1 Mr. Wiecezorek a question, though?  
 2 MR. SMITH: Uh-huh.  
 3 CHAIRMAN SAHR: You're not offering  
 4 this to say he necessarily has signed on this  
 5 document. My understanding, at least what I can  
 6 ascertain where you're going is you are going as to  
 7 cost issues and what's economically feasible and  
 8 that is why you're using this Minnesota Docket for  
 9 more of a cross-examination as to cost, not  
 10 necessarily saying Mr. Heiberger agrees what's in  
 11 it or disagrees or was a party to this; is that  
 12 correct?  
 13 MR. WIECZOREK: That is correct.  
 14 And the Petitioner represents that it is a party  
 15 but it is cross-examination and they have proposed  
 16 to the Commission that they must follow this direct  
 17 interconnect that costs over a half a million  
 18 dollars, \$576,000, as being the only way to do  
 19 this. So I think I'm entitled as a member of --  
 20 even just solely based on his membership with MIC  
 21 to say -- to examine him. All of his other MIC  
 22 patriots in Minnesota have come to the direct  
 23 opposite conclusion and they have endorsed  
 24 essentially the same structure that Western  
 25 Wireless has proposed here.

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1 MS. POLLMAN ROGERS: If this is a  
 2 general cost objection, as Chairman Sahr has said,  
 3 then the Western Wireless will have an opportunity  
 4 to present this and cross against the -- or direct  
 5 it to the cost consultants. But I do not think  
 6 that it's proper to address this to this witness  
 7 because he has stated that -- and just because he's  
 8 a member of MIC does not mean that he was a party  
 9 to this action and he had another action pending, a  
 10 separate Docket in Minnesota. And so, therefore, I  
 11 think that this line of questioning on  
 12 cross-examination is out of line with regard to  
 13 this witness.  
 14 CHAIRMAN SAHR: I would think that  
 15 you could probably use something from the state of  
 16 Georgia for that matter for getting to whether or  
 17 not something's feasible. Certainly he can say I  
 18 don't know or you can have your cost expert explain  
 19 why it's a bogus argument in your opinion but is it  
 20 not relevant to look at other cost comparisons when  
 21 he has -- again, I'm not commenting on the merit of  
 22 this cross-examination, strictly on whether or not  
 23 it's a legitimate review of another feasible or  
 24 potential cost method.  
 25 MS. POLLMAN ROGERS: And I'm not

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1 trying to argue with you here. I understood  
 2 Mr. Wiecezorek to say that he was asking him as a  
 3 member of Minnesota whatever it is, MIC, and I  
 4 think that he is specifically -- the witness has  
 5 clearly pointed out that he was not a party to this  
 6 action and that he had his own separate Docket.  
 7 And so, therefore, I don't think that to  
 8 question him as a member of MIC or because he was a  
 9 member of MIC on these specifics in a Docket that  
 10 he specifically tried to withdraw from is an  
 11 appropriate line of cross-examination. If we're  
 12 going to talk about costs and attack those, then  
 13 they can go to other witnesses that will be  
 14 presented later and Western Wireless will have  
 15 plenty of opportunity to pursue that.  
 16 CHAIRMAN SAHR: Do they have another  
 17 cost witness? Is it Mr. DeWitte?  
 18 MS. POLLMAN ROGERS: Yes.  
 19 CHAIRMAN SAHR: Would you think that  
 20 it would be appropriate to ask Mr. DeWitte that?  
 21 MS. POLLMAN ROGERS: I'm not going  
 22 to concede that at this point.  
 23 CHAIRMAN SAHR: I don't mean to  
 24 belabor the point but surely they can cross-examine  
 25 people on what costs they put forward and say

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1 there's different methodology. Again, I'm not  
 2 assuming this is a good or bad way of doing this or  
 3 anything else other than to say I think on  
 4 cross-examination it's pretty much fair game to say  
 5 you could do it more cheaply or more cost  
 6 effectively and here's an example they did that.  
 7 MS. POLLMAN ROGERS: I think that's  
 8 an issue, and I guess I would have to hear the  
 9 questions as they come in order to respond to that.  
 10 MR. SMITH: I'm going to sustain the  
 11 objection to the extent -- or recommend sustaining  
 12 the objection to the extent that the testimony is  
 13 in any way attempting to show that ITC somehow  
 14 estopped itself or represented in an alternative  
 15 proceeding a contrary technical methodology for  
 16 achieving LNP.  
 17 To the extent that you're using the document  
 18 merely as a way of showing an alternative solution  
 19 to that which the Petitioner has proposed, and,  
 20 again, keeping the questions within his area of  
 21 competence to which you can freely object, I think  
 22 the document -- I'm going to allow questions using  
 23 this document for that purpose.  
 24 Q We were on page 14 and I was asking you to read the  
 25 sentence that starts with "Rather." Could you read

1 that, please, out loud?  
 2 MS. POLLMAN ROGERS: Just a minute.  
 3 I have one other issue here and that is that it's  
 4 my understanding that this document has not been  
 5 admitted into evidence and, therefore, there is no  
 6 foundation for this line of questioning based on  
 7 this document.  
 8 MR. WIECZOREK: Okay. I'll ask the  
 9 foundational questions.  
 10 MR. SMITH: Please proceed.  
 11 Q You stated earlier you got a copy of this document  
 12 based on your membership with MIC; correct?  
 13 A I believe this is the one I've received, yes.  
 14 Q Right. You saw your name on Exhibit 1?  
 15 A Yes.  
 16 Q So this is a document you've seen before and it's true  
 17 and correct, isn't it?  
 18 A I guess from what I've seen.  
 19 MS. POLLMAN ROGERS: I object. I  
 20 don't think that's proper foundation, and I don't  
 21 think this witness has the requisite qualifications  
 22 to establish foundation for this document.  
 23 MR. WIECZOREK: It's a public  
 24 document and the Commission can take public notice  
 25 of it too. He's already testified he received a

1 copy of this document and then he called and asked  
 2 his name be removed. There's no question of  
 3 authenticity.  
 4 MR. SMITH: Well, again, I think the  
 5 other thing is I'm going to address the foundation  
 6 thing really quick. I don't think the witness is  
 7 being asked whether this particular document states  
 8 technical facts that are true or false. He's just  
 9 being asked whether -- if it's true and based upon  
 10 this particular presentation by an organization in  
 11 Minnesota would that present an alternative,  
 12 assuming those facts to be true.  
 13 MS. POLLMAN ROGERS: I understood  
 14 Mr. Talbot's question. Again, I'm not trying to  
 15 belabor the point but I understood Mr. Talbot asked  
 16 him about the truth and accuracy of this document  
 17 by way of foundation.  
 18 MR. WIECZOREK: Well, he received a  
 19 copy of it. You're not claiming that I forged  
 20 something on it, are you, Mr. Heiberger?  
 21 THE WITNESS: No. Not to my  
 22 knowledge. I haven't read it all. I can't imagine  
 23 that you did.  
 24 CHAIRMAN SAHR: I didn't know you  
 25 went to law school.

1 MR. SMITH: I'm going to let you ask  
 2 the witness a couple of questions. If he doesn't  
 3 possess the requisite ability to know, I will  
 4 consider sustaining the objection with respect to  
 5 him.  
 6 MS. POLLMAN ROGERS: Mr. Heiberger,  
 7 do you have any personal knowledge of whether or  
 8 not this was a Docket that was filed in Minnesota?  
 9 Do you have any personal knowledge? Did you file  
 10 it?  
 11 THE WITNESS: No.  
 12 MS. POLLMAN ROGERS: Did you prepare  
 13 it?  
 14 THE WITNESS: No.  
 15 MS. POLLMAN ROGERS: It's not  
 16 your --  
 17 THE WITNESS: I received a copy of  
 18 it.  
 19 MS. POLLMAN ROGERS: But beyond  
 20 that, you don't know what happened with this --  
 21 THE WITNESS: No.  
 22 MS. POLLMAN ROGERS: -- proceeding  
 23 or this document in Minnesota; is that correct?  
 24 THE WITNESS: That's correct.  
 25 MS. POLLMAN ROGERS: I'm going to

1 continue to object on the basis of foundation. He  
 2 does not have the qualifications to lay the proper  
 3 foundation to enter this exhibit.  
 4 CHAIRMAN SAHR: I don't think  
 5 they're entering the exhibit, though.  
 6 MR. WIECZOREK: Well, I will move  
 7 it.  
 8 MR. SMITH: Are you going to move it  
 9 based on his foundation?  
 10 CHAIRMAN SAHR: I think there you  
 11 may have a point. The question of whether you can  
 12 cross-examine him on it, I think you can probably  
 13 cross-examine on it subject to the question of  
 14 whether it should be admitted.  
 15 MS. POLLMAN ROGERS: I was under the  
 16 impression he offered it and that's where the  
 17 questions were -- I'm objecting to the foundation.  
 18 CHAIRMAN SAHR: But not use of the  
 19 document.  
 20 MS. POLLMAN ROGERS: I'm objecting  
 21 to continued use of the document in the proceeding  
 22 in absence of proper foundation and there isn't  
 23 any.  
 24 CHAIRMAN SAHR: Well, isn't it one  
 25 thing to get into evidence and a separate thing

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1 whether or not he can ask him, do you agree with  
2 this statement, whether it was from Minnesota or  
3 off the top of his head?

4 MS. POLLMAN ROGERS: But again, I'm  
5 not trying to belabor the point but I don't believe  
6 that that's the line that this cross-examination  
7 has taken. He has asked him to read specific  
8 portions from this document verbatim. That's  
9 different than general questions about a proceeding  
10 in Minnesota in general or a proceeding in some  
11 other state.

12 And I think when we're talking about specific  
13 references to the Docket and asking the witness  
14 about that, that exhibit needs to be offered into  
15 evidence and there isn't a proper foundation and in  
16 absence of that there's not a foundation, proper  
17 foundation for this line of questioning. That's  
18 the basis for my objection.

19 CHAIRMAN SAHR: But I don't believe  
20 he's asking that -- and I'm not going to jump in  
21 here on this any further -- well, but, no, it's a  
22 significant point. I think he's having him read  
23 the part of the record and then saying do you agree  
24 with this or is this correct, which is different  
25 than saying that you -- and asking him questions

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1 based on that. He's not asking him to have that  
2 become part of the record in and of itself, and if  
3 he does, I think you can make a foundation  
4 objection at that point.

5 MS. SISAK: I'm not sure I  
6 understand, but are you suggesting that just the  
7 parts of this document that are read by  
8 Mr. Heiberger would be in the record and the rest  
9 of the document would not?

10 CHAIRMAN SAHR: I don't think it's  
11 in the record other than a hypothetical. I think  
12 it's -- at this point in time unless he can get it  
13 admitted.

14 MS. POLLMAN ROGERS: But that's not  
15 the way the questioning has taken place. It's not  
16 taken place as a hypothetical. That's the basis of  
17 my objection.

18 CHAIRMAN SAHR: Isn't he asking him  
19 whether he agrees or disagrees with him?

20 MS. POLLMAN ROGERS: I think the  
21 questions have gone beyond that. I really do. So  
22 then what do we have in the record? We have bits  
23 and pieces of something for which there's  
24 inappropriate foundation entered into the record.

25 CHAIRMAN SAHR: Well, I think the

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1 hypothetical question can be part of the record. I  
2 don't think the underlying evidence, though, that  
3 it's based on comes in unless it's admitted. I  
4 think you are correct, I think that would not be  
5 part of the record unless it's admitted on its own.

6 MS. SISAK: So the fact he's only  
7 selectively had Mr. Heiberger read from the record,  
8 we would then be forced to introduce this in  
9 evidence to try to rebut the questions that we feel  
10 may be improper?

11 MR. GERDES: Mr. Chairman, I object.  
12 I think the rule is one lawyer per witness.

13 MS. SISAK: I withdraw my question.

14 CHAIRMAN SAHR: Maybe I'm trying to  
15 define this too narrowly but what I would think is  
16 if he's asking a hypothetical or a question or  
17 saying here is one way that it could work, could it  
18 not, I would think that that would be acceptable no  
19 matter what it's based on. Now if he's trying to  
20 get that particular statement into the evidence  
21 other than as a question from an attorney, then I  
22 agree with you. I don't think Mr. Heiberger  
23 reading into it makes it part of the record, so to  
24 speak, other than in terms of here is your  
25 hypothetical question.

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1 So I think there's -- I think I'm agreeing  
2 with you in a roundabout way.

3 MR. SMITH: Well, if that's what the  
4 Chairman thinks, that's must be what I think.

5 CHAIRMAN SAHR: Should we go into  
6 executive session on it?

7 MR. SMITH: I don't think so. I'm  
8 going to allow the questioning to proceed again  
9 with -- I think I already stated this before, with  
10 this document just basically being a template for  
11 framing questions to the witness.

12 But I would state, Mr. Heiberger, please don't  
13 feel the need to answer questions that you don't  
14 know the answer to. Say I don't know. You know,  
15 if you don't know whether the assumptions implicit  
16 in a question are -- if you don't know whether they  
17 are true or not true, then I would appreciate it if  
18 you did not answer the question.

19 THE WITNESS: Okay.

20 CHAIRMAN SAHR: And I would add one  
21 other thing too. I think if it is going to be  
22 entered as part of the record, then I clearly think  
23 when it gets outside the scope of hypothetical I  
24 would encourage you to restate your objection at  
25 that point to the foundation. But I think if it's

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1 strictly being used as a means of posing  
 2 hypothetical questioning, then I think it probably  
 3 is fair game to ask him.  
 4 Now again, as Mr. Smith said, if he doesn't  
 5 know the answer, there's nothing wrong with saying  
 6 I don't know and then he can ask Mr. DeWitte or  
 7 somebody else that same question.  
 8 **Q** I'm trying to remember exactly where I was,  
 9 Mr. Heiberger. Just as a way of clarification, of the  
 10 conversations since submitting testimony it was my  
 11 understanding from your earlier testimony that you said  
 12 you received a pleading showing that a petition had  
 13 been filed on your behalf from the MIC council and you  
 14 called the MIC council and asked them to take you off;  
 15 correct?  
 16 **A** I called ITC's legal counsel in Minnesota plus one of  
 17 the consultants in Minnesota and said, What am I doing  
 18 on this.  
 19 **Q** And that was after you had gotten a copy of a pleading  
 20 showing that you were on this petition that we've been  
 21 talking about?  
 22 **A** That's correct. And I think it was even after we had  
 23 gotten our suspension.  
 24 **Q** Okay. Let's go back then to page 14 where I talk about  
 25 that first full paragraph, and I think I'm going to ask

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1 you for the third time would you read the sentence that  
 2 starts "Rather"?  
 3 **A** "Rather the companies have focused on the eminently  
 4 reasonable solution by the CMRS providers to deliver  
 5 traffic to companies, the companies are" --  
 6 **Q** I'm sorry. Did you want to finish that paragraph?  
 7 **A** No.  
 8 **Q** That's your understanding of at least the companies  
 9 that want to be involved in this petition, that was  
 10 their conclusion that this was the most eminently  
 11 reasonable solution?  
 12 **A** Yes. That's what I understand.  
 13 **Q** And you disagree with that statement?  
 14 **A** Do I disagree with it?  
 15 **Q** Yeah.  
 16 **A** I think that the costs that we have shown here based on  
 17 our network architecture in South Dakota is one that's  
 18 too expensive for our customers.  
 19 **Q** Right. But you agree with me that the cost structure  
 20 you have proposed and submitted to this Commission  
 21 which is over \$2.6 million the first year just in  
 22 transport-related costs, install and monthly that  
 23 follows this must have a point of interconnection  
 24 between every one of your switches and six different  
 25 wireless companies; right?

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1 **A** That's correct.  
 2 **Q** And you also agree that's not what MIC is proposing to  
 3 do in Minnesota; correct?  
 4 **A** That's my understanding. Yeah. MIC is proposing it a  
 5 different way.  
 6 **Q** And do you agree with me that the proposal that MIC is  
 7 making is the same that Western Wireless is making  
 8 here?  
 9 **A** I'm not sure if it's exactly the same.  
 10 **Q** If you'd turn to page 20 of that same document, you'll  
 11 see that that's the list of the members. You see that  
 12 it has a caption on the top and it reads, "The  
 13 following LECs have end offices which subtend the Qwest  
 14 access tandem but have one-way terminating trunks."  
 15 MS. POLLMAN ROGERS: I'm sorry.  
 16 What page are we on?  
 17 MR. WIECZOREK: 20 by the fax  
 18 numbers, upper right-hand corner. It's the Exhibit  
 19 1 to that.  
 20 **Q** And it continues and says, "LEC is working with Qwest  
 21 to reconfigure these one-way groups as two-way groups  
 22 to permit delivery of LEC WLNP ported traffic." Do you  
 23 see that?  
 24 **A** Yes, I do.  
 25 **Q** When they talk about the two-way ported traffic you're

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1 talking about making the tandem switch run both ways;  
 2 is that correct?  
 3 **A** Making the trunk group work two ways.  
 4 **Q** You haven't had any conversations with Qwest concerning  
 5 what it would cost to make the trunk work two ways;  
 6 correct?  
 7 **A** That's correct. I have not.  
 8 **Q** And you haven't had any conversations with Qwest  
 9 regarding what they would charge you at a minute charge  
 10 to run the traffic both -- excuse me, when you're  
 11 sending it out?  
 12 **A** That's correct.  
 13 **Q** But you're in here testifying to this Commission that  
 14 LNP results in an undue economic burden on your  
 15 company, aren't you?  
 16 **A** Based on today's network, the way it's designed.  
 17 **Q** And when you say based on today's network, the way it's  
 18 designed, what you're saying is because you don't have  
 19 a contractual agreement with Qwest to run the traffic  
 20 the other way, you currently don't have an agreement to  
 21 do that so you can't?  
 22 **A** That plus we built our costs based on the way the  
 23 existing network in South Dakota is already deployed.  
 24 **Q** And that's the same way your network is deployed in  
 25 Minnesota?

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1 A No. We don't have any dedicated 2-B connections in  
2 Minnesota at this point in time.

3 Q Oh, so there is no direct connects with any cellular  
4 companies in Minnesota at this time?

5 A That's correct.

6 Q While you've claimed that providing LNP would cause  
7 undue economic burden upon your company, you do agree  
8 that if Commission were to require implementation of  
9 LNP, you would have the ability to pay for it?

10 A The up-front capital costs of doing it?

11 Q Yes.

12 A More than likely, yes, we could sustain that  
13 expenditure, yes.

14 Q And when you say sustain that expenditure, that assumes  
15 the \$576,000 install cost that Mr. DeWitte's proposed;  
16 correct?

17 A I haven't looked at our financials for sure to make  
18 sure that they could take care of all of those costs,  
19 but we'd have to analyze it.

20 MR. WIECZOREK: Might as well get  
21 into this now before I go too far. I'm going to  
22 move Exhibits 5 and 6 at this time.

23 MS. POLLMAN ROGERS: I will object  
24 to those for lack of foundation.

25 MR. WIECZOREK: 5 is the diagram and

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1 I believe he's testified both pictures accurately  
2 represent proposals that have been made to the  
3 Commission.

4 MS. POLLMAN ROGERS: I'll ask the  
5 same questions for the purposes of objection. Did  
6 you personally prepare either diagram -- either  
7 number -- what are we talking about 4 or 5? 5.

8 THE WITNESS: No, I did not prepare  
9 these.

10 MS. POLLMAN ROGERS: I object on the  
11 grounds of foundation.

12 MR. SMITH: I think page 2 of 5 is  
13 the part that concerns me the most. I think he did  
14 testify that the connections that are shown in the  
15 first page reflect his understanding of the  
16 solution that they proposed.

17 MR. WIECZOREK: And, frankly, I  
18 recall that he also testified that page 2 is how  
19 Western Wireless has proposed it based on his  
20 understanding.

21 The fact that he didn't prepare the document  
22 doesn't mean that it's not admissible or that once  
23 he validates the document he's saying yes, this is  
24 an accurate representation. That's sufficient  
25 foundation under the rules of evidence. Otherwise,

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1 I could never get a cross-examination document into  
2 evidence.

3 MS. POLLMAN ROGERS: Excuse me, but  
4 this witness testified that he was not aware of who  
5 the other wireless carriers were listed on there.  
6 At least he for certain was not aware of one. And  
7 he also testified he was not sure about the costs  
8 that have been included here on the first page.  
9 And he also testified that he was not aware about  
10 the accuracy of the costs on the second page. So I  
11 don't believe that there is adequate foundation for  
12 this witness for the introduction of this exhibit.

13 And, furthermore, there will be opportunity  
14 for them to put their own witness on and establish  
15 a foundation if that's what it takes.

16 MR. SMITH: I'm going to sustain the  
17 objection and deny admission at this time.

18 MR. WIECZOREK: To both 5 and 6  
19 then?

20 MR. SMITH: 6 I am also going to  
21 deny, although it may be one in the end I'm going  
22 to end up taking judicial notice of, but after I  
23 check. But I'm going to deny it at this point in  
24 time. I don't think the witness has established  
25 that he knows that this is an official document of

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1 the State of Minnesota.

2 COMMISSIONER BURG: Can I ask a  
3 question? What does what we just heard from this  
4 witness mean if what he was talking about is not  
5 evidence?

6 MR. SMITH: They're just questions  
7 to him. And I'm assuming at some point in time the  
8 document will probably be offered with alternative  
9 foundation.

10 COMMISSIONER BURG: If we've just  
11 ruled that he had nothing to do with these  
12 documents, how does his answer mean anything?

13 CHAIRMAN SAHR: Can we go off the  
14 record.

15 (Discussion off the record)

16 (A short recess is taken at which time the  
17 Commission meets in executive session)

18 MR. SMITH: The hearing is back in  
19 session. Mr. Wieczorek, you may resume.

20 Q (BY MR. WIECZOREK) Mr. Heiberger, you understand that  
21 federal law allows you to recover your costs incurred  
22 in implementing LNP; correct?

23 A It's my understanding that you receive compensation for  
24 those costs for your customer base, that's correct.

25 Q You do a per-line charge?



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1 A Yes.

2 Q And you'd agree with me that Congress envisioned the

3 fact LNP would cost you some money, that's why they

4 provided for a per-line charge?

5 A That's correct.

6 Q And what per-line cost charge do you contend

7 implementation of LNP does not result in imposing a

8 requirement that is unduly economically burdensome?

9 A I think for my customers, the more elderly ones, it

10 would certainly have to be 10 to 20 cents, I would

11 think, somewhere in that neighborhood.

12 Q Now you're not presenting any demographic information

13 on the average income of your customers, are you?

14 A No.

15 Q And you haven't done any independent internal survey of

16 your customers as to what they would pay for the option

17 of local number portability, have you?

18 A I have not, but I have talked to customers on rate

19 increases such as the SLC increase and that was

20 troublesome for many of the customers.

21 Q That SLC increase was \$3?

22 A Yes.

23 Q \$3 per line?

24 A I believe that's right.

25 Q You collect high-cost support and switch support

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1 through USAC payments; right?

2 A That's correct.

3 Q And annually you submit your cost data to USAC for

4 setting those support limits; is that correct?

5 A That's correct.

6 Q And so if you implemented LNP, you would actually

7 submit those switch costs and that information to USAC

8 for setting your high-cost support, wouldn't you?

9 A I'm not sure if I can submit those for reimbursement.

10 Q You don't know?

11 A I do not.

12 MR. WIECZOREK: That's all I have.

13 MR. SMITH: Mr. Gerdes.

14 MR. GERDES: Thank you, Mr. Smith.

15 Now that I have my papers dried off.

16 CROSS-EXAMINATION

17 BY MR. GERDES:

18 Q I just have a couple of things I'd like to cover with

19 you, Mr. Heiberger. If you would look at your prefiled

20 direct testimony on page 4.

21 A Yes.

22 Q You talk about existing capital investments for

23 broadband that will be diverted if your company must

24 deploy LNP. Do you see that on line 5?

25 A Yes, I do.

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1 Q And in your testimony you say, third sentence, "Any

2 amount of capital investment that is diverted to the

3 implementation of LNP will reduce needed capital for

4 broadband investments." Do you see that?

5 A I do.

6 Q What do you talk about when you say broadband?

7 A I'm talking about dollars that would be put into our

8 infrastructure to enhance our service offerings to our

9 customers, broadband being DSL services, bandwidth and

10 above.

11 Q You're talking about Internet services?

12 A Broadband services I believe are defined by the

13 Commission to be 200 kilobits and above.

14 Q Okay. What kind of services would you offer in those

15 bands?

16 A High-speed DSL services, BDSL services.

17 Q So that would be Internet?

18 A That's correct.

19 Q Cable?

20 A That's correct.

21 Q Okay. And you're aware of the fact that Midcontinent

22 competes with your company in the Webster exchange for

23 cable; correct?

24 A Certainly.

25 Q And it competes with your company in the Webster

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1 exchange for Internet access; correct?

2 A That's correct.

3 Q And you're aware that Midcontinent contends that in

4 order for it to effectively compete, it also needs to

5 have local number portability; correct?

6 A I don't know if you need it for effective competition.

7 You've got your NXX right now, and you're competing

8 with us. I don't know if that's effective for you or

9 not.

10 Q That wasn't my question.

11 A Okay.

12 Q It's correct, is it not, Midcontinent contends in order

13 to compete effectively it has to have local number

14 portability?

15 A Yes. That's correct.

16 Q Okay. And the contention goes to the fact that

17 Midcontinent, again, contends that in order -- that the

18 purpose of requiring local number portability was in

19 fact to foster competition in the local loop in the

20 1996 Act; correct?

21 A Could you restate it?

22 Q It is Midcontinent's -- I'm asking if you agree that it

23 is Midcontinent's contention that the purpose of

24 requiring local number portability in the local loop

25 was to enhance competition in the local loop?

1 MS. POLLMAN ROGERS: I'm going to  
2 object to that question. I don't know where in the  
3 record you're referring to when you say that  
4 Midcontinent is contending those things.  
5 MR. SMITH: Sustained.  
6 Q Are you aware of the purpose of -- what was the  
7 announced purpose of -- what was the announced purpose  
8 of local number portability in the '96 Act?  
9 A I don't know.  
10 Q You don't know why they required incumbent local  
11 exchange carriers to provide local number portability  
12 to connecting local exchange carriers?  
13 A Not specifically what they wanted us to do with it.  
14 Q Mr. Heiberger, you have a newsletter that you publish  
15 on the Internet; is that correct?  
16 A That's correct.  
17 Q I'm going to show you what has been marked as Exhibit  
18 2, and I'll ask you if that's a copy of your column in  
19 your newsletter that appeared in your April newsletter?  
20 MR. SMITH: Can I ask, Dave, is  
21 that marked Midco 2 or something else?  
22 MR. GERDES: Excuse me. Midco 2.  
23 Pardon me.  
24 MR. SMITH: Thank you.  
25 A Yes. This is a copy of my article.

1 Q Would you look at the second paragraph, please, and  
2 read it?  
3 A Starting with the "Federal Communications Commission"?  
4 Q Right.  
5 A "Has issued an order on November 10, 2003. This order  
6 basically states if a wireline company such as your  
7 cooperative, ITC, is requested by a wireless company to  
8 provide LNP, the wireline company must comply and  
9 provide the service within six months of the initial  
10 request. The LNP service essentially provides  
11 customers the ability to port or transfer his or her  
12 wireline phone number to a wireless phone thus  
13 eliminating the need for a wireless phone number or  
14 existing wireline service."  
15 Q Would you read the first part of the next paragraph.  
16 A "Since the FCC issued the Order ITC has received  
17 numerous requests from wireless companies to provide  
18 the service." Incidentally, we have also received a  
19 similar request from a competing wireline company  
20 within our service territory.  
21 Q And who might that competing wireline company be that  
22 you received a similar request from?  
23 A It would be Midco.  
24 Q Okay. And it's true, is it not, that Midco gave you  
25 that request because they feel that they need local

1 number portability in order to compete with ITC in that  
2 exchange?  
3 MS. POLLMAN ROGERS: I object to  
4 that question. That's outside the scope of this  
5 witness's knowledge.  
6 MR. GERDES: I don't know. I just  
7 asked him the question.  
8 A I don't know if that was why you filed.  
9 Q Have you read Midcontinent's Motion to Compel in the  
10 192 Docket?  
11 A Yes.  
12 Q I'll show you a copy of the Motion to Compel in the 192  
13 Docket and direct your attention to paragraph 4 of that  
14 Motion, the last sentence. Would you read that,  
15 please.  
16 A "Logically avoiding competition can be the only reason  
17 an incumbent LEC would wish to discriminate between  
18 wireless-to-wireline porting and wireline-to-wireline  
19 porting."  
20 Q Thank you. So you're aware that Midcontinent contended  
21 that avoiding competition can be the only reason that  
22 ITC would seek not to provide local number porting to  
23 Midcontinent?  
24 MS. POLLMAN ROGERS: Now wait. Are  
25 we talking about -- your earlier questions were

1 with regard to this Docket.  
2 MR. GERDES: I just had him read the  
3 petition in the 192 Docket.  
4 MS. POLLMAN ROGERS: I understand  
5 that. Are you asking him -- I'm just asking for  
6 clarification. Are you asking him -- I don't  
7 understand your question, I guess. Could you  
8 repeat it.  
9 MR. GERDES: Well, in both the 192  
10 Docket and in this Docket we are contending that  
11 Midcontinent is entitled to local number  
12 portability and that it's a matter of competition  
13 between Midcontinent and ITC, that ITC is seeking  
14 to obtain a competitive advantage by not providing  
15 local number portability when Midcontinent is  
16 seeking it.  
17 MS. POLLMAN ROGERS: That's a  
18 misstatement of the record. Those contentions are  
19 not contained in your petition to intervene in this  
20 Docket.  
21 MR. GERDES: They are part of the  
22 issues involved in whether or not local number  
23 portability should be provided in this Docket.  
24 MS. POLLMAN ROGERS: But you did not  
25 make those contentions in this Docket.

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1 MR. GERDES: Okay. Okay.

2 Q Setting aside for the moment whether or not

3 Midcontinent made those contentions in this Docket, are

4 you aware that Midcontinent has ever contended that it

5 was entitled to local number portability in order to

6 level the playing field of competition between ITC and

7 Midcontinent?

8 A I guess I don't understand or I don't know what you're

9 really asking me.

10 Q Okay. Have you ever understood that Midcontinent

11 wanted local number portability so that it could

12 compete fairly with ITC in Webster?

13 A Based on previous filed testimony, yeah, you know,

14 Ms. Lohnes stated it there, that she thought it was

15 needed so they could successfully compete.

16 Q Okay. Thank you. And so going back to your prefiled

17 testimony on page 4, what you're in essence saying is

18 that you prefer to spend money on your broadband

19 investments in order to compete with Midcontinent

20 rather than spending money on local number portability,

21 which would permit Midcontinent to compete with ITC in

22 the telecommunications area.

23 A No. Basically the crux of that statement is that we've

24 had greater demand for broadband services than what

25 we've had for LNP services, and I can't envision why we

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1 would want to go spend the amount of money that would

2 be required for LNP but rather invest it in services

3 that my customers are asking for.

4 Q Do you agree that not offering LNP to Midcontinent puts

5 Midcontinent at a competitive disadvantage?

6 A I don't know that.

7 Q How about if you were in Midcontinent's shoes would you

8 rather have LNP, or would you rather be able to use

9 your own NXX when those people want to keep their

10 numbers in Webster?

11 A I'm not in LNP's shoes. I guess I don't know. I

12 haven't really thought about it.

13 Q You heard Mary Lohnes' testimony to the effect that she

14 had received numerous -- or quite a number of requests

15 for LNP? You heard that testimony, did you not?

16 A I think she said she had had her technicians contact

17 her in regards to when are we going to get LNP services

18 in Webster is what I think I recall.

19 Q You don't recall her saying that they had had customers

20 making those inquiries?

21 A I think she stated she had some customers requesting it

22 and then she also elaborated on her technicians.

23 Q Would you expect customers to want to have local number

24 portability if they were switching carriers?

25 A I guess I'm not a customer. I guess I can't answer for

103

1 them.

2 MR. GERDES: Okay. We'll offer

3 Midco Exhibit 2.

4 MS. POLLMAN ROGERS: No objection.

5 Was there are a Midco Exhibit 1 or not?

6 MR. SMITH: Not yet. Admitted.

7 Q Mr. Heiberger, when we're talking about local number

8 portability, of course that works both ways, would it

9 not?

10 A What, for your number to be ported to me?

11 Q For example, if Midco's customers wanted to go with

12 ITC, that local number portability works in that

13 direction as well; isn't that true?

14 A I would assume so, but I'd have to defer to my

15 technical people. I guess I hadn't thought about it

16 that way.

17 Q So it's a two-way street. If Midcontinent customers

18 want to come with ITC they would be entitled to have

19 their number follow them in that direction as well,

20 would they not?

21 A I would think so, yes.

22 MR. GERDES: That's all I have.

23 Thank you.

24 MR. SMITH: Ms. Wiest.

25 CROSS-EXAMINATION

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1 BY MS. WIEST:

2 Q What is ITC's current local rate?

3 A 12.50.

4 Q Is that for all of your exchanges?

5 A It is.

6 Q And you stated in your direct, I believe, that you have

7 six wireless carriers authorized to serve; is that

8 correct, in your area?

9 A Yes.

10 Q How many of those wired carriers are currently serving

11 in your area?

12 A We have not Western Wireless, Verizon, Sprint PCS, RCC,

13 and Midwest Wireless is in Minnesota, I believe. So

14 those four, I believe. Nextel is one of the other ones

15 that I believe has authorization but is not currently

16 operating and I can't recall the other one. I should

17 have looked that up at the break.

18 Q So Verizon Wireless does serve. Western Wireless

19 serves, Sprint PCS does serve?

20 A That's correct.

21 Q RCC serves your entire area?

22 A Not entire area.

23 Q Part of it?

24 A The majority.

25 Q Majority?

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1 A Yes.  
 2 Q Midwest Wireless?  
 3 A Is in Minnesota.  
 4 Q Only?  
 5 A Yeah.  
 6 Q And Nextel?  
 7 A They're authorized but are not operational, as I  
 8 understand it.  
 9 Q For the carriers that are authorized to provide service  
 10 in your area but do not currently serve, do you have  
 11 any reason to expect that those carriers will decide to  
 12 provide service in the near future?  
 13 A I would certainly anticipate they would. I think they  
 14 have some build-out requirements that they have to meet  
 15 in their areas, and I don't know what timeline they're  
 16 on in regards to those build-out requirements.  
 17 Q But to date you've received BFR request from three  
 18 carriers; is that correct?  
 19 A That's correct.  
 20 Q Wireless carriers, I should say?  
 21 A Yes.  
 22 Q ITC currently has four type 2-B connections with two  
 23 different wireless carriers?  
 24 A That's correct.  
 25 Q If you go to page 3 of your direct testimony beginning

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1 on line 15?  
 2 A All right.  
 3 Q You state only one subscriber has inquired about LNP.  
 4 How did you determine -- how did you come up with that  
 5 number? Was that just based on your personal  
 6 experience or did you inquire of all of your staff and  
 7 exchanges?  
 8 A My managers had advised me that this customer had, and  
 9 through subsequent questions, haven't heard of any  
 10 other customers for intermodal portability here.  
 11 Q So would you expect inquiries regarding LNP to be made  
 12 to your company or wireless?  
 13 A I'm sorry.  
 14 Q Would you expect inquiries regarding LNP to be made to  
 15 your company or expect to be made to the wireless  
 16 company?  
 17 A I would think we would hear about them coming back  
 18 through our personnel and our board of directors that  
 19 we have out in all of our exchanges.  
 20 Q If you could go to page 6 of your direct testimony, and  
 21 looking at line 5 you're talking about some of what you  
 22 refer to as the unknowns and one of those questions  
 23 that you asked is what would the porting interval be.  
 24 A The requirements of actually making a port and  
 25 verifying the testing of it, yes.

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1 Q So if your costs are based on an automated SOA system,  
 2 would any change in the porting interval have any  
 3 effect on your company?  
 4 A I'd really like to defer that to John DeWitte, if I  
 5 could.  
 6 Q And then on page 6 at the bottom of the page -- I'm  
 7 sorry. At the top of the page, it makes much more  
 8 sense -- on line 3, "It makes much more sense to wait  
 9 for the FCC or courts to clarify key issues."  
 10 Is it your position that the suspension  
 11 should last until the FCC decides or until any or all  
 12 of the appeals come to a conclusion?  
 13 A That or this Commission decides the issues, as I  
 14 understand it now better that they have the authority  
 15 to determine some of these issues, is my understanding.  
 16 Q You think some of these unresolved issues can be  
 17 determined by the Commission?  
 18 A That's my understanding, yes.  
 19 Q Going to your rebuttal testimony, do you have that in  
 20 front of you?  
 21 A Yes, I do.  
 22 Q If you could turn to page 3, please.  
 23 A All right.  
 24 Q Beginning on line 12, you state that if calls to  
 25 numbers ported to a carrier are to be dialed on a local

108

1 seven digit basis a direct connection needs to be  
 2 established between the carriers; is that correct?  
 3 A That's correct, based on our Interconnection Agreement  
 4 and framework we've essentially built all of our cost  
 5 estimates on, yes.  
 6 Q And then below that you talk about Western Wireless's  
 7 routing proposal. Do you see that?  
 8 A Yes.  
 9 Q Do you consider Western Wireless's proposal to be a  
 10 direct connection?  
 11 A Consider that's how we based our costs off, that in  
 12 order to use the network under the Interconnection  
 13 Agreement that we have in place that they would need to  
 14 deploy to be -- direct connections to each one of our  
 15 exchanges.  
 16 Q Okay. With respect to what Western Wireless has  
 17 proposed for transport do you consider Western  
 18 Wireless's proposal -- would you call that a direct  
 19 connection?  
 20 A I'm still not following. I'm sorry, Rolayne.  
 21 Q Well, you talked about that you needed a local seven  
 22 digit basis, a direct connection needs to be  
 23 established?  
 24 A Right.  
 25 Q Would Western Wireless's proposal would that be a

109

1 direct connection in your mind?

2 **A** Yes. It would have to be in my mind to be

3 connections -- to make it a local call.

4 **Q** But Western Wireless's proposal where they want to go

5 through the Qwest serving tandem, would that be a

6 direct connection in your mind?

7 **A** Not as I understand the direct connections that we've

8 referred to in the past.

9 **Q** Okay. So then based on Western Wireless's proposal --

10 **A** It would not.

11 **Q** If you used Western Wireless's proposal, the routing

12 proposal, could you dial the local seven digit basis

13 numbers on the local seven digit basis?

14 **A** It's not my understanding or I guess I really don't

15 know. Maybe John could help out with that or one of

16 the other witnesses.

17 **Q** Could you go to page 2 still on your rebuttal?

18 **A** All right.

19 **Q** On line 4 you state that "Pursuant to the

20 Interconnection Agreement ITC did not agree to route

21 traffic destined for Western Wireless to the serving

22 tandem," correct?

23 **A** That's correct.

24 **Q** My question is why couldn't you agree to that?

25 **A** Well, because of the transport costs issues, the

110

1 tandeming cost issues, many other issues that I'm sure

2 many of the other experts will address here in their

3 testimony in the next two weeks.

4 **Q** Is it actually your understanding that routing to the

5 serving tandem would be cheaper than establishing

6 direct connections?

7 **A** I don't know that.

8 **Q** Do you know, is it ITC's position that transport costs

9 should be included in a customer surcharge?

10 **A** I'm not sure if those specific costs can be put into

11 the customer surcharge. I think John would be able to

12 address it.

13 **Q** Assuming that your costs do reflect transport costs in

14 the surcharge and assuming that there's nothing that

15 would prevent ITC from coming to an agreement and going

16 through the Qwest serving tandem, why wouldn't ITC want

17 to make sure that it took the least expensive approach

18 for its customers?

19 **A** I think we ultimately have to get to that, yes, to make

20 it affordable for our customers if it does go through,

21 that we minimize the impacts to the customer base

22 certainly.

23 **Q** So if you are required to implement LNP, do you believe

24 that you would look at other proposals such as Western

25 Wireless's routing proposal because it appears to be

111

1 cheaper than establishing all of those direct

2 connections?

3 **A** I think there are different ways now to deploy this

4 type of service and all of those need to be researched.

5 **Q** If you look at page 4 on your rebuttal, you describe a

6 situation that you call a regulatory arbitrage

7 scenario. Do you remember that?

8 **A** Yes.

9 **Q** So I guess my question is how likely do you think it is

10 that one of your wireline customers will port his

11 number to Western Wireless, if I understand this

12 correctly, in order that a different ITC landline

13 customer will be able to call the wireless customer

14 total free?

15 **A** I think this is actually talking about how a customer

16 would get rid of his wireless number.

17 **Q** Right. Oh, his wireless?

18 **A** Take his ITC number, okay, and then within that

19 exchange that would be a local call, okay, and then at

20 some point port that number back to a wireless phone.

21 So then now he's got an ITC number that's local to that

22 exchange and then bypass toll.

23 **Q** So that he could call who, anybody in the ITC?

24 **A** So other customers could call him and benefit from

25 that.

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1 **Q** Would that be only subscribers in the ITC exchange who

2 could call him?

3 **A** Right.

4 **Q** Toll-free?

5 **A** Yes.

6 **Q** And you think they'd be willing to get rid of their

7 landline --

8 **A** It's a possibility.

9 **Q** But they would still keep their wireline service under

10 that?

11 **A** I think in this scenario a customer would disconnect

12 his wireless phone, get the wireline phone, and then

13 port his wireline phone to another wireless phone

14 number again so then the local people in that exchange

15 could call that -- now the wireless customer and bypass

16 toll.

17 **Q** Okay.

18 MS. WIEST: Can I show him a

19 response to staff's data request?

20 **Q** I just wanted to clarify lifeline customers. I believe

21 in -- this is -- staff sent a request on March 17 to

22 the company.

23 **A** Okay.

24 **Q** And we got the response on Friday. And down here you

25 state the number of lines, and then you say you have

113

1 306 lifeline?

2 A Correct.

3 Q Is that correct?

4 A For the total of South Dakota, I believe.

5 Q Okay. And I just wanted you to compare that to a

6 number that was in response to Interstate -- your

7 response to the first discovery request for Western

8 Wireless?

9 A Okay.

10 Q And that number there -- and you can tell me what the

11 difference is for. It appeared to be that the lifeline

12 was 354.

13 A I don't know why those numbers would be different.

14 Q I didn't know if you based them on different years or

15 those were --

16 A This is the average number of lifeline. This was -- I

17 know this was year end.

18 Q That was year end?

19 A This was the 12-31-03 number, I believe.

20 MR. WIECZOREK: Can I ask they

21 identify what one is year end.

22 THE WITNESS: 306. I'm sorry.

23 Q That's year end?

24 A I believe this was a number at the end of 2003, and

25 this -- it says it's the average lifeline customers

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1 throughout 2003. I don't know if that is the reason

2 why they're different. I would assume that is.

3 Q Okay.

4 MS. WIEST: That's all I have.

5 MR. SMITH: Thank you. I think

6 what I'll do is ask the Commissioners if they have

7 anything so when we go back to you that you will be

8 able to address that at the same time. Is that

9 okay?

10 MR. DICKENS: Great.

11 MR. SMITH: Commissioners.

12 COMMISSIONER BURG: I just have

13 one. Mr. Heiberger, did you testify that you

14 received suspension of LNP in Minnesota?

15 THE WITNESS: That's correct.

16 COMMISSIONER BURG: In other words,

17 they've been through this process, and you got the

18 suspension; is that correct?

19 THE WITNESS: That's correct. And

20 then after that happened then the MIC group came

21 out and my name appeared on that -- not my name but

22 Interstate's name appeared on that and when I saw

23 it I said, well, why is my name on this, just

24 because I'm a --

25 COMMISSIONER BURG: That wasn't

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1 where I was going but -- maybe it is a little bit,

2 but was the MIC proposal out when you got your

3 suspension? Was that available? Was that aware of

4 the MIC proposal.

5 THE WITNESS: They didn't publish

6 that document until after I got my suspension in

7 Minnesota is from what I can recall.

8 COMMISSIONER BURG: My question was

9 going to be how did you get that suspension if this

10 much cheaper proposal was out there?

11 THE WITNESS: It was before.

12 COMMISSIONER BURG: Did you use the

13 same type of -- I guess I'll use this even though

14 it wasn't accepted. Did you use this same type of

15 proposal in your testimony for request for

16 suspension in Minnesota?

17 THE WITNESS: It was based on that,

18 I believe, yes, and -- yes.

19 COMMISSIONER BURG: Were you the

20 only one into that Docket -- did they handle your

21 suspension request separately or combined like

22 ours?

23 THE WITNESS: I think if I recall

24 correctly, there's maybe two or three companies

25 that are similar to my suspensions in Minnesota.

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1 And I can't recall if they were all part of one

2 Docket.

3 COMMISSIONER BURG: Did you have to

4 testify in Minnesota?

5 THE WITNESS: I did not.

6 COMMISSIONER BURG: You did not?

7 That's all I had. I just wanted to clarify.

8 MR. SMITH: Other Commissioner

9 questions?

10 VICE CHAIR HANSON: I have one, if I

11 could. Mr. Heiberger, in one of my future lives I

12 was a utilities Commissioners -- one of my previous

13 lives. I'm not sure what my future lives are going

14 to be. It will all depend on voters perhaps too.

15 One of my previous lives I was utilities

16 Commission in charge of electric and water

17 reclamation and if someone had come to me and said

18 in order to implement something we may be required

19 to implement that it's going to cost \$54 per meter

20 plus 12 and a half dollars recurring costs, after I

21 got off the floor, got done saying something

22 impertinent I would say let's examine every option

23 we possibly can pursue to provide this in a quality

24 fashion but let's see what our least costs are

25 going to be.

1 Did you pursue that?

2 THE WITNESS: I think it's important

3 to understand -- and this is my understanding of

4 things is that if I could refer to this -- I don't

5 know if I can or not.

6 VICE CHAIR HANSON: Please. If

7 you'd like to refer to that, yes.

8 THE WITNESS: This thing was

9 developed this way based on the Interconnection

10 Agreement that we have in place with Western

11 Wireless right now stating that we've got a -- or

12 the local call has got to terminate, from my

13 understanding, to a direct connection within that

14 local exchange.

15 And that's why this thing was developed this

16 way, as to my knowledge. We've got an

17 Interconnection Agreement there in place, basically

18 sets out these parameters that this is how these

19 calls are going to be handled. Based on that,

20 here's what the costs are going to be.

21 VICE CHAIR HANSON: I think we

22 understand that. My question was did you pursue

23 every available option? Did you say let's look at

24 this and see what directions we can go? Not what

25 particularly we're limited to under our present

1 framework but let's green light think, let's see

2 what we can do here?

3 THE WITNESS: No. We just based it

4 off the agreement we're working under right now.

5 VICE CHAIR HANSON: After listening

6 to -- answering questions today, do you believe

7 that there are other options available to you?

8 THE WITNESS: There are certainly

9 other options out there that other states are

10 utilizing.

11 VICE CHAIR HANSON: So let me get

12 this straight. You did not ask Mr. DeWitte or any

13 other person to look at any other options that

14 might be available to you?

15 THE WITNESS: No. We just based it

16 off of the existing architecture that we have in

17 place today.

18 VICE CHAIR HANSON: Okay. Thank

19 you.

20 COMMISSIONER BURG: Can I just do a

21 follow-up to his? Just a clarification. Is it

22 your testimony that you would probably have to do

23 new interconnection agreements with them to use a

24 different mechanism?

25 THE WITNESS: That's my

1 understanding, yes.

2 COMMISSIONER BURG: That's all I

3 had.

4 CHAIRMAN SAHR: Good afternoon.

5 THE WITNESS: Good afternoon.

6 CHAIRMAN SAHR: Or is it evening?

7 THE WITNESS: Getting close.

8 CHAIRMAN SAHR: Getting closer.

9 This is a hypothetical. If the Commission were to

10 grant some type of temporary suspension, would ITC

11 be willing to look into alternatives to allow

12 porting to go forward if there were some lower cost

13 alternatives out there?

14 THE WITNESS: As long as all issues

15 are analyzed and addressed, certainly to minimize

16 the impact to my customers, certainly.

17 CHAIRMAN SAHR: And if that was done

18 in some type of comprehensive work group including

19 parties to this proceeding and staff, would that be

20 something you would be willing to look into?

21 THE WITNESS: Based on what I know

22 today, yes. Yep.

23 CHAIRMAN SAHR: Now the -- when the

24 Minnesota document was presented to you that's not

25 something that you have had an opportunity to

1 review in the past, is it?

2 THE WITNESS: The Minnesota what?

3 CHAIRMAN SAHR: When the

4 Minnesota -- this public document that

5 Mr. Wieczorek -- that's not something you had an

6 opportunity to review in the past, is it?

7 THE WITNESS: When I received it,

8 yeah, I contacted my legal counsel over there and I

9 said, why is ITC listed on this thing? We're not a

10 party to this.

11 CHAIRMAN SAHR: Do you remember whe

12 you received it?

13 THE WITNESS: It was in, I think,

14 early May sometime.

15 CHAIRMAN SAHR: This year?

16 THE WITNESS: Yes.

17 CHAIRMAN SAHR: You haven't had an

18 opportunity to look into whether or not that --

19 THE WITNESS: I haven't been able to

20 contact too many people on it.

21 CHAIRMAN SAHR: It's always fair

22 game to say I don't know. Do you know whether that

23 would have merit or not have merit in South Dakota?

24 THE WITNESS: I don't know.

25 CHAIRMAN SAHR: Obviously what works

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1 in one state may not work in other state.  
 2 THE WITNESS: Exactly right. That's  
 3 correct.  
 4 CHAIRMAN SAHR: Do you think  
 5 Mr. DeWitte would be able to testify to that?  
 6 THE WITNESS: He may be able to  
 7 refer to him.  
 8 CHAIRMAN SAHR: One of the things  
 9 that came up was the, I guess, issues of consumers  
 10 and for lack of a better word I'll throw out the  
 11 word "gaming the system" in trying to obtain what  
 12 might otherwise not be a local number for their  
 13 wireless phone through various means.  
 14 Would it surprise you to learn that after --  
 15 if a new tower is put up or where existing towers  
 16 are and the numbers aren't local for the people in  
 17 the area for people to call, would it surprise you  
 18 to learn we have a lot of people express interest  
 19 in having those numbers made local?  
 20 THE WITNESS: Would that surprise  
 21 me? No.  
 22 CHAIRMAN SAHR: And you had  
 23 mentioned that you thought there was a possibility  
 24 for someone to go wireless to landline back that  
 25 way.

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1 THE WITNESS: Sure.  
 2 CHAIRMAN SAHR: But I wonder if a  
 3 more likely scenario would be you just take your  
 4 landline number, convert it to wireless and then  
 5 add a new landline number and it's a much smoother  
 6 process where you wouldn't have to worry about some  
 7 contract issues and so on and so forth. Isn't that  
 8 another possible scenario --  
 9 THE WITNESS: Certainly.  
 10 CHAIRMAN SAHR: -- that people could  
 11 use to get what otherwise would not be a local  
 12 number?  
 13 THE WITNESS: Uh-huh.  
 14 CHAIRMAN SAHR: What would be the  
 15 impact of that on your particular company or  
 16 cooperative? Excuse me.  
 17 THE WITNESS: If we were to port one  
 18 number and then -- but still retain a landline at  
 19 that residence?  
 20 CHAIRMAN SAHR: Well, let me ask it  
 21 this way. If the consumer normally has a -- excuse  
 22 me for using some lay terms, nonlocal number and  
 23 people in the area are calling them and then they  
 24 can subsequently change that to a local number,  
 25 perhaps by taking a landline to a wireless number,

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1 I'm curious to see how does that impact your  
 2 cooperative? Does that have an impact on your  
 3 bottom line?  
 4 THE WITNESS: If that landline  
 5 number was installed and then eventually ported and  
 6 we lost that landline, certainly we would, you  
 7 know, lose access lines, access revenue, Universal  
 8 Service Funds based on the investment into those  
 9 access lines.  
 10 CHAIRMAN SAHR: Are there situations  
 11 where you cannot only be losing the revenue from  
 12 that but also -- and I'm asking this strictly  
 13 because I don't know the answer to this off the top  
 14 of my head but could you have a situation where I  
 15 switch and get that local number and then I move  
 16 off to Sioux Falls or do something along those  
 17 lines? Is there any other financial impact  
 18 associated with that? I mean, do you end up having  
 19 to pay fees that you can't recover?  
 20 THE WITNESS: Well, there would be  
 21 long distance charges possibly by customers that  
 22 would be impacted for our customers and then yes,  
 23 we would lose access charges if we don't have that  
 24 number local to us anymore.  
 25 CHAIRMAN SAHR: This morning we

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1 talked a little bit about interim number  
 2 portability.  
 3 THE WITNESS: Uh-huh. Yes.  
 4 CHAIRMAN SAHR: Is that an  
 5 alternative here?  
 6 THE WITNESS: I don't see it as one.  
 7 You know, going wireline to wireless in an interim  
 8 number portability is a whole new ball game. It's  
 9 got many different issues associated with it as I  
 10 understand it where in a wireline to wireline it's  
 11 much easier to deploy.  
 12 CHAIRMAN SAHR: So you wouldn't  
 13 think it would have the same applicability when you  
 14 get into the context of going wireline to wireless  
 15 as opposed to this morning when you talked about  
 16 going wireline to wireline?  
 17 THE WITNESS: That's correct. I  
 18 don't think it would be applicable.  
 19 CHAIRMAN SAHR: Again I encourage  
 20 you if you don't know the answer to this just say  
 21 you don't know. But what would be some of the  
 22 issues that would be involved with interim number  
 23 portability if you did it in the context of  
 24 wireless?  
 25 THE WITNESS: Yeah. I would have to



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1 defer that to other experts.  
 2 CHAIRMAN SAHR: Thank you.  
 3 MR. SMITH: Can I ask a couple of  
 4 questions? When Mr. Wieczorek was discussing with  
 5 you the Minnesota petition that was filed by the  
 6 MIC group in Minnesota he pointed out to you  
 7 several places in the document where the use of the  
 8 bidirectional tandem group method was deployed.  
 9 And I think maybe Commissioner Sahr asked you this  
 10 question a little less directly, but do you know  
 11 whether that option is available in South Dakota?  
 12 THE WITNESS: I do not know if it's  
 13 available or not.  
 14 MR. SMITH: With reference to the  
 15 numbers that were in the Minnesota petition, the  
 16 cost numbers pertinent to that particular method  
 17 that apparently may be available from Qwest in  
 18 Minnesota, do you of your own knowledge have any  
 19 idea whether those numbers are -- first of all, do  
 20 you know whether they are even accurate in terms of  
 21 the Minnesota bidirectional service?  
 22 THE WITNESS: I do not. I think  
 23 there are rates out there that Qwest is trying to  
 24 charge or some of the services, and how that  
 25 applies in Minnesota I just haven't been following

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1 it. I guess I can't answer the question.  
 2 MR. SMITH: And in terms of  
 3 South Dakota do you know what the charges would be  
 4 from Qwest if available for that type of system in  
 5 South Dakota?  
 6 THE WITNESS: I would have no idea.  
 7 MR. SMITH: Thank you. Mr. Dickens,  
 8 do you want to have at it? We have about 15  
 9 minutes left.  
 10 MR. DICKENS: I'm hopeful that I  
 11 won't even consume all 15 minutes.  
 12 REDIRECT EXAMINATION  
 13 BY MR. DICKENS:  
 14 Q Mr. Heiberger, do you remember when you were being  
 15 cross-examined by Mr. Wieczorek answering a question  
 16 about what you did during the time period after their  
 17 request was received by your company for LNP and the  
 18 time that you filed your petition? Do you generally  
 19 recall that?  
 20 A Yes, I do.  
 21 Q And my recollection is that Mr. Wieczorek asked if you  
 22 contacted Western Wireless during that period that you  
 23 were conducting an inquiry of some sort.  
 24 A That's correct.  
 25 Q What kind of inquiry was that you were conducting?

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1 A Well, we were researching our costs.  
 2 Q Yes.  
 3 A Yes.  
 4 Q And the question that I have for you is if you had  
 5 contacted Western Wireless during the period of time  
 6 that you were conducting a cost inquiry, do you have an  
 7 opinion on whether that would have affected your costs  
 8 in any way?  
 9 A I do not have an opinion on that.  
 10 Q Ms. Wiest was asking you with reference to your  
 11 rebuttal testimony on page 2 some questions about the  
 12 Interconnection Agreement that was signed between ITC  
 13 and Western Wireless and whether the Western Wireless  
 14 routing proposal is consistent with that agreement.  
 15 Do you generally recall that discussion?  
 16 A I do.  
 17 Q And I want to ask you some questions about your current  
 18 architecture. I think that's the term you mentioned  
 19 with either Ms. Wiest or Commissioner Hanson.  
 20 When you currently route a wireline to  
 21 wireline call outside of your local exchange area who  
 22 do you route those to?  
 23 A A wireline to wireline?  
 24 Q Yes. Say a customer calls from your exchange to --  
 25 A Florida.

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1 Q Florida. Yes. How is that handled?  
 2 A It is routed through the SDN or South Dakota Network  
 3 centralized equal access tandem and is handed off to  
 4 the interexchange carrier that is prescribed by that  
 5 customer that's making the call.  
 6 Q Who pays to originate and terminate those interexchange  
 7 calls?  
 8 A It would be IXC's long distance carriers.  
 9 Q What do they pay?  
 10 A Access charges.  
 11 Q And I think you just mentioned your wireline  
 12 interexchange calls today is routed through SDN?  
 13 A That's correct.  
 14 Q Is it your understanding that the Western Wireless  
 15 proposal that we talked about, if the Qwest trunks are  
 16 converted to two-way trunks it is effectively asking  
 17 you to route interexchange calls outside your existing  
 18 network that is utilized today?  
 19 A That would be correct.  
 20 Q And is it your understanding that in many cases those  
 21 calls would traverse exchange boundaries, the  
 22 interexchange?  
 23 A Correct.  
 24 Q And do you know whether -- if those Qwest trunks are  
 25 converted to two-way trunks to carry wireless calls

1 outside of your local exchange area, do you know if  
 2 that traffic would be subject to access charges?  
 3 A I don't know that. I would assume that they would not  
 4 be charged an access charge.  
 5 Q If they were not would you have a concern about the  
 6 competitive neutrality of that arrangement?  
 7 A Very much so. It would be lost access revenue for us.  
 8 MR. DICKENS: I think those are all  
 9 the questions we have.  
 10 MR. SMITH: Mr. Wieczorek.  
 11 MR. WIECZOREK: Believe it or not  
 12 I'll keep it short. I want to follow up what  
 13 Mr. Dickens just said.

14 RECROSS-EXAMINATION

15 BY MR. WIECZOREK:

16 Q That lost access revenue that you're concerned about,  
 17 will it exceed the \$157,000 monthly recurring charge  
 18 you're going to incur if you do LNP your way?  
 19 A I don't know the answer to that.  
 20 Q What's the rate for that lost access revenue?  
 21 A Per minute?  
 22 Q Yeah.  
 23 A Somewhere in the neighborhood of 8 and a half cents, I  
 24 believe.  
 25 Q 8 and a half cents per minute?

1 A Per minute.  
 2 Q So if I do my math quick here -- so you'd have to lose  
 3 in excess -- let's just assume even a dime a minute.  
 4 You'd have to lose over \$1.5 million in access revenue  
 5 or spend 1.5 million minutes in a month to meet what  
 6 you're posting as a monthly recurring charge; correct?  
 7 A I believe your math is correct.  
 8 Q Well, and my assumption is correct there too; correct?  
 9 A Sure.  
 10 Q Is it your contention that calls to a ported number are  
 11 toll or access calls, or which do you contend it is?  
 12 A Toll is what the customer pays. Access is what the  
 13 long distance carrier would pay.  
 14 Q When you were doing your investigation of how to  
 15 deliver LNP you never contacted Western Wireless about,  
 16 hey, would you work with us on the interconnect  
 17 agreement so we can do this cheaper, did you?  
 18 A No. We based our cost assumptions based on what we had  
 19 in place with the Interconnection Agreement.  
 20 Q Right. You're assuming that the interconnection  
 21 agreements as they exist have to stay in place?  
 22 A That's my assumption, correct.  
 23 MR. WIECZOREK: That's all I have,  
 24 with the exception, Commissioners -- I'm doing this  
 25 more just to preserve my record understanding it's

1 been ruled on before but given Mr. Heiberger's  
 2 answer to Commissioner Sahr that when I received  
 3 this, that he said in reference to Exhibit 6 I  
 4 think takes away all questions as to it's  
 5 foundational legitimacy and I'd move it again into  
 6 admission.  
 7 MS. POLLMAN ROGERS: And I continue  
 8 my objection. I still do not think that that's  
 9 adequate foundation for admission of Exhibit 6, and  
 10 I think it should not be received pursuant to the  
 11 foundation that has been laid to date.  
 12 MR. SMITH: We're going to deny it  
 13 for now, and it's possible that we will rule on it  
 14 differently after we sleep overnight.  
 15 MR. WIECZOREK: Just for the record,  
 16 to the extent, though, the objections I've made,  
 17 the argument I've made, I'd like that to act as my  
 18 offer of proof for evidentiary reasons.  
 19 MR. SMITH: Absolutely.  
 20 MR. WIECZOREK: Thank you.  
 21 MR. SMITH: Mr. Gerdes.  
 22 MR. GERDES: No questions.  
 23 MS. WIEST: No questions.  
 24 MR. SMITH: Anything further?  
 25 MR. DICKENS: No.

1 MR. SMITH: You're excused.  
 2 THE WITNESS: Thank you.  
 3 MR. WIECZOREK: Can I ask a quick  
 4 clarifying question on a procedural issue? Because  
 5 this was discussed in the meetings with counsel and  
 6 that was whether when a cost expert is testifying  
 7 for multiple parties in one day whether he'd only  
 8 be called once and call both company people.  
 9 I guess I'm wondering what the procedure is  
 10 going to be -- if Brookings is going to go first so  
 11 Mr. DeWitte is on the stand tomorrow, I'd like to  
 12 know that ahead of time.  
 13 MR. SMITH: How do you want to do  
 14 that, Commissioners? Are you asking is the  
 15 question, Tal, are we going to begin with Brookings  
 16 immediately tomorrow?  
 17 MR. WIECZOREK: Is Mr. DeWitte going  
 18 to get on the stand and talk about ITC and then  
 19 Brookings is going to get on and Mr. DeWitte is  
 20 going to get on the stand and talk about Brookings?  
 21 I have no objection to Brookings getting on the  
 22 stand and doing their foundational things and  
 23 Mr. DeWitte covering both companies at one sitting.  
 24 MR. SMITH: Let me ask you this,  
 25 because of the other issues related to just ITC

1 maybe with the Midco -- is there a sufficient  
2 distinction between ITC and the other companies to  
3 where it's impracticable to do that? Otherwise I  
4 think that is what we should probably do.

5 MR. GERDES: You're talking about  
6 having Mr. DeWitte testify as to both companies.

7 MR. SMITH: Right.

8 MR. GERDES: Yeah. We have no  
9 objection to that.

10 MR. SMITH: Do you have an objection  
11 to that?

12 MS. POLLMAN ROGERS: I'm not sure  
13 what the question is.

14 MR. SMITH: The question was do we  
15 start with Brookings' foundational testimony, in  
16 other words -- and he would start out and do like  
17 Jerry did today and then they would put Mr. DeWitte  
18 on for both companies. So we'd have him on there,  
19 and you could handle all of it at once.

20 MR. GERDES: Excuse me, John. I  
21 misunderstood Mr. Harrington. He has a plane to  
22 catch tomorrow afternoon at 2 o'clock or he has to  
23 leave here at 2 o'clock to catch his plane.  
24 Perhaps we could have Mr. DeWitte do ITC first and  
25 then go to the Brookings.

1 MS. POLLMAN ROGERS: Because Midco  
2 has not intervened in the Brookings case at all.

3 MR. GERDES: That's correct.

4 MR. SMITH: I think we'll do that to  
5 accommodate.

6 MR. HARRINGTON: You could do  
7 DeWitte on both of those companies first and go to  
8 Brookings' foundational witnesses. I don't know if  
9 that works for you or not.

10 MR. WIECZOREK: I don't think so.

11 MR. GERDES: So we'll do DeWitte  
12 first.

13 MR. SMITH: Yes. Thanks. We're in  
14 recess until tomorrow at whenever the Commission  
15 meeting is done. I scheduled it for 10:30, but in  
16 reality it will be whenever.

17 (Proceedings are in recess)

18  
19  
20  
21  
22  
23  
24  
25

1 MR. SMITH: We will resume the  
2 presentation of the direct case of Petitioners in  
3 the Dockets that are scheduled for yesterday and  
4 today. We did not conclude TC04-054 yesterday.  
5 And with that, I will turn it over to Ms. Rogers to  
6 proceed.

7 MS. POLLMAN ROGERS: Thank you,  
8 Mr. Smith. Petitioners would call John DeWitte to  
9 the stand.

10 JOHN DEWITTE,  
11 called as a witness, being first duly sworn in the  
12 above cause, testified under oath as follows:

13 DIRECT EXAMINATION

14 BY MS. SISAK:

15 Q Mr. DeWitte, would you please state your name and  
16 address for the record.

17 A My name is John Michael DeWitte, and my address is  
18 Mitchell, South Dakota.

19 Q Will you please take a look at Exhibits 3 and 4 and  
20 tell me if that is your direct prefiled testimony and  
21 rebuttal prefiled testimony.

22 (Witness examines documents)

23 A It is.

24 Q Did you prepare both of those exhibits?

25 A Yes, I did.

1 Q Can you briefly describe your qualifications to testify  
2 in this case?

3 A Certainly. I am currently vice president of  
4 engineering for Vantage Point Solutions, which is a  
5 telecom consulting and engineering firm located in  
6 Mitchell, South Dakota. I'm a licensed professional  
7 engineer in South Dakota and 10 other states. I have  
8 over 20 years' experience in the telecom industry  
9 focusing on engineering, including switching transport  
10 and access electronics. I've personally engineered  
11 over 400 switching systems mostly with Nortel Networks  
12 where I did spend 10 years in various positions.

13 The purpose of my testimony today is that I'm  
14 going to provide testimony on LNP implementation, where  
15 the costs come from, what were the criteria that we  
16 used to build those costs and the assumptions and --  
17 assumptions for each of the cost areas. And we can get  
18 into, you know, what those areas were. But, in  
19 addition, to provide any insight on what effects some  
20 of the things that are unresolved may have on those  
21 costs.

22 Q Mr. DeWitte, do you have any additions or corrections  
23 to your prefiled direct or rebuttal testimony?

24 A No, I do not.

25 Q If I were to ask you all the questions in your direct

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1 and rebuttal testimony, would your answers be the same  
 2 today?  
 3 A Yes, they would.  
 4 Q And do you have any additional summary comments of your  
 5 testimony that you would like to make?  
 6 A I guess I would like to summarize that if we look at,  
 7 you know, some of the things that have occurred  
 8 since -- you know, since the Telecom Act was actually  
 9 passed in 1996, one of the things that, you know, most  
 10 of the less than 2 percent carriers including clients  
 11 that we work with have been aware of is, yeah, LNP is  
 12 out there, but mostly, you know, the requirements for  
 13 LNP were on the wireline-to-wireline side.  
 14 A lot of those things changed with the FCC's  
 15 November 10 Order that made wireless -- or  
 16 wireline-to-wireless local number portability a ruling.  
 17 And one of the things, you know, that was interesting  
 18 about that Order is there were some unresolved issues  
 19 in it but yet while there were some conversations going  
 20 on in the background, I do believe that, you know, the  
 21 timing of that Order did place a little bit of a burden  
 22 on companies as, you know, they weren't expecting, you  
 23 know, to have to implement that in the near-term time  
 24 frame.  
 25 So, you know, after the November 10 Order was

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1 actually passed, that's when they began to take a look  
 2 at, well, now that we have to do LNP what's it going to  
 3 cost us. And there's basically four cost areas that  
 4 needed to be evaluated. Those cost areas were what do  
 5 we have to do to the physical switching infrastructure.  
 6 There's switches that have to be updated, software,  
 7 hardware potentially. There's coordination that must  
 8 fill in with the NPAC group for service order  
 9 administration and related items like that. There's  
 10 administration and testing and marketing, regulatory,  
 11 those types of effects that need to be addressed.  
 12 And one of the biggest question marks, of  
 13 course, was transport. So part of the process of, you  
 14 know, grasping what the implementation of LNP meant was  
 15 to look at all of these cost areas and determine, you  
 16 know, with the way that the industry was going, you  
 17 know, what were reasonable costs based on the rules  
 18 that were in effect at the time.  
 19 And so as I'll show when we discuss these  
 20 things, the methodology that we used to come up with  
 21 our cost estimates were based on the rules that we had  
 22 in hand. So if you draw an analogy where you're  
 23 planning a vacation, I mean, when you do the planning  
 24 process you figure out where you're going to go, you  
 25 figure out how to get there, there's roads that connect

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1 when you're driving, there's laws that need to be  
 2 obeyed like speed limits and things like that. And  
 3 when we're coming up with cost estimates and  
 4 implementation costs for something like LNP, we have to  
 5 follow the same type of methodology. We know that --  
 6 you know, where we want to be in the end. We know what  
 7 rules are out there. We take a look at facilities of  
 8 networks and things like that that are already there,  
 9 and we, you know, take a look at how we can implement a  
 10 workable solution that fits within that framework.  
 11 And the, you know, key point there is that,  
 12 you know, there are several alternatives. There are  
 13 alternatives that involve renegotiation. There's  
 14 alternatives that involve different network  
 15 configurations, different pricing, et cetera. With the  
 16 time frame that we had in which to evaluate these  
 17 costs, you know, there wasn't a lot of time to do a lot  
 18 of negotiation or any negotiation, for that matter,  
 19 with any carriers that would require, you know, a  
 20 renegotiation of an existing agreement or renegotiation  
 21 of new facilities or anything like that.  
 22 So if we take a look at the framework that is  
 23 there and the rules that are there, those are the rules  
 24 we must follow when we're coming up with cost  
 25 estimates.

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1 One of the outcomes, you know, that I think  
 2 we just witnessed was that given enough time there are  
 3 extenuating circumstances where a lot of these costs  
 4 can be negotiated and agreements can be met, but as a  
 5 general universal rule we were taking a look at, you  
 6 know, what the rules were in place at the time and how  
 7 those rules affected what we needed to do to get LNP  
 8 operational in these networks.  
 9 Q Thank you.  
 10 MS. SISAK: I'd like to offer  
 11 Exhibit 3, which is Mr. DeWitte's direct prefiled  
 12 testimony, and Exhibit 4, which is Mr. DeWitte's  
 13 rebuttal testimony, into evidence at this time.  
 14 MR. WIECZOREK: I have no objection.  
 15 MR. GERDES: No objection.  
 16 MS. WIEST: No objection.  
 17 MR. COIT: No objection.  
 18 MR. SMITH: Mr. DeWitte's direct  
 19 testimony and rebuttal testimony are admitted. And  
 20 I would note that the rebuttal testimony references  
 21 several Dockets other than the two that we are  
 22 talking about at the moment. And I don't know if I  
 23 need to read off all of those numbers because the  
 24 exhibit is what it is.  
 25 MR. WIECZOREK: For the record,

1 Western Wireless wouldn't object to that rebuttal  
2 testimony coming in on all Dockets.  
3 MR. SMITH: Thank you. So it is so  
4 admitted in all the Dockets that are referenced on  
5 the face of the document.

6 MS. SISAK: The witness is available  
7 for cross-examination.

# CROSS-EXAMINATION

9 BY MR. WIECZOREK:

10 **Q** Mr. DeWitte, how are you today?

11 **A** I'm good. How are you?

12 **Q** Not too bad.

13 MR. COIT: Excuse me. The Order on  
14 cross was SDTA then -- right?

15 MR. SMITH: It was. I'm sorry.

16 MR. COIT: I just want to remind you  
17 of that. I don't have any cross for this witness,  
18 but I think that's probably the proper order.

19 MR. SMITH: Thank you. I stand  
20 chastised. Go ahead, Tal.

21 MR. WIECZOREK: I apologize. I  
22 think it was my fault for jumping in.

23 MR. SMITH: Quite all right.

24 **Q** Now you're here today and you're testifying  
25 specifically cost specific right now as to Interstate

1 but you're testifying through these proceedings for  
2 seven different companies; is that correct?

3 **A** That's correct.

4 **Q** And in fact in your rebuttal testimony, which I believe  
5 has been marked as an exhibit, the exhibit to that  
6 rebuttal testimony, 3A, places all seven companies in a  
7 matrix showing the different costs; correct?

8 **A** That is correct. That exhibit for simplicity's sake  
9 was taken from Ron Williams' direct testimony and in  
10 order to not recreate the wheel we used his exhibit and  
11 looked at some of the changes that he made and then  
12 incorporated some additional numbers back into that  
13 exhibit.

14 **Q** Yeah. And you would agree with me that exhibit lists  
15 the same costs that you listed in your cost sheet that  
16 you provided to Interstate -- that they filed with  
17 their petition; right?

18 **A** No. I would not agree with that.

19 **Q** Cost categories. Excuse me. Cost numbers. I  
20 apologize.

21 **A** Yes. It contains the same cost categories.

22 **Q** Okay. We can talk about numbers later.

23 **A** Okay.

24 **Q** In your testimony you talk that your company works with  
25 a number of rural LECs and you estimated you worked

1 with over 100 rural LECs?

2 **A** Could you repeat that?

3 **Q** That your company has worked with over 100 rural LECs.

4 **A** That's correct.

5 **Q** Where are those LECs located?

6 **A** Those LECs are located primarily in the upper Midwest  
7 from the states of Idaho to Ohio down through Missouri  
8 and Kansas. So it's kind of the upper breadbasket of  
9 the Midwest.

10 We also have select clients that are outside  
11 of that geographical area. You know, for instance  
12 there's a couple in North Carolina, a couple in  
13 Georgia, Utah, et cetera. It's not coast to coast, but  
14 it's primarily the upper Midwest with the lion's share  
15 of them being in the Dakotas and Iowa and Minnesota.

16 **Q** So you do work with rural LECs in Minnesota?

17 **A** Yes.

18 **Q** Okay. Are you familiar with the MIC filing in  
19 Minnesota?

20 **A** I'm familiar the MIC filing is out there. I have not  
21 reviewed the MIC filing. The only comment I have on it  
22 is it's my understanding that the MIC group was unable  
23 to come to any sort of agreement with Qwest for those  
24 numbers and has since filed a petition. But I have no  
25 knowledge of the negotiations that went on with Qwest

1 or, you know, exactly where that stands.

2 I was going to say the only information I've  
3 got was that, you know, the number that the companies  
4 were willing to file was one number, the Qwest number  
5 that came back was another number. They weren't the  
6 same. The Qwest number was higher. Hence they filed  
7 for some sort of relief. But beyond that I'm not  
8 familiar with any of the details of the filing.

9 **Q** All right. Let me ask you, you said the one number  
10 Qwest was offering and the number MIC wanted were  
11 different so that caused the filing. What number are  
12 you talking about, the cost number for what?

13 **A** My understanding was that they were negotiating with  
14 Qwest for some sort of, you know, transiting or  
15 transport number. I don't know what the numbers are or  
16 what they included or what they didn't include. So I  
17 can't testify to you what those numbers represented.  
18 The only information I have, just from what I've heard,  
19 is that they were not able to come to an agreement on  
20 whatever the rates or numbers or configurations or  
21 whatever it was so hence they did file for a suspension  
22 of their LNP obligations.

23 **Q** Okay. Well, they filed for suspension for 67 days;  
24 correct?

25 **A** I have no idea.

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1 Q Okay. That time period was mentioned yesterday in the  
 2 cross-examination. While you are sitting here, do you  
 3 have any reason to dispute that?  
 4 A I did not read the attachment that was passed around.  
 5 So if you're telling me the number was 67, then that's  
 6 what it was.  
 7 Q Okay. The companies that have filed with that as part  
 8 of that MIC filing, does your company do any work for  
 9 those companies, besides Interstate?  
 10 A To tell you the truth, I couldn't even tell you who the  
 11 members of MIC are.  
 12 Q Okay.  
 13 A So, I mean, I've had zero involvement in it so, I mean,  
 14 you can read me a list and, you know, hard to say.  
 15 It's hard to tell, you know, what, if any, involvement  
 16 any of those companies have had. So I don't know. I  
 17 don't know the answer to your question.  
 18 Q You weren't asked by any company, rural LECs in  
 19 Minnesota, to do a cost analysis for LNP, were you?  
 20 A Yes, I was. But none of those companies have been  
 21 mentioned here.  
 22 Q Well, if you look at what has been marked for  
 23 identification purposes as Western Wireless's Exhibit  
 24 No. 6, page 20 by the fax numbering at the top, there's  
 25 a list of the companies that are part of this filing.

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1 Why don't we turn to that and you can reference that  
 2 when we talk about companies.  
 3 Now the company --  
 4 A Just for clarification, is this the same thing we were  
 5 looking at yesterday?  
 6 Q Yes.  
 7 A I guess that I thought this wasn't admitted into  
 8 evidence.  
 9 Q It's been marked for reference purposes.  
 10 A Okay.  
 11 Q And I'm asking you to look at page 20 of that exhibit.  
 12 The companies that you did a LNP cost analysis for in  
 13 Minnesota, are any of them listed on Exhibit 6, page 20  
 14 by the fax page?  
 15 MS. SISAK: I object to the  
 16 relevance of this line of questioning. This is a  
 17 different state, different carriers, and different  
 18 proceedings, and I don't see any connection with  
 19 the cost testimony filed by Mr. DeWitte for ITC in  
 20 South Dakota.  
 21 MR. WIECZOREK: Well, if he did a  
 22 cost analysis for one of these companies and  
 23 they've rejected it or proceeding under this  
 24 different procedure in Minnesota, then I think it  
 25 is relevant for impeachment of the opinions he's

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1 rendering today as to cost.  
 2 MS. SISAK: I would object to the  
 3 suggestion that some communication between  
 4 Mr. DeWitte and an entity that is not a party to  
 5 this proceeding should somehow be admissible into  
 6 evidence, not withstanding whatever confidentiality  
 7 questions may arise.  
 8 MR. WIECZOREK: If the Commission  
 9 would note, I didn't ask him to -- I don't believe  
 10 I asked him to name the companies. I asked him to  
 11 look to see if any of the companies that gave the  
 12 opinion were on that list. I'm not going to ask  
 13 him to identify the specific companies that are on  
 14 that list that he gave that kind of opinion to  
 15 because I don't want to get into what the  
 16 confidentiality is, but I do want to ask him  
 17 follow-up questions about whether he rendered the  
 18 same type of cost opinions to them that he's  
 19 rendering in front of this Commission or whether he  
 20 gave input on the cost issues based on the  
 21 procedures they're pursuing in Minnesota.  
 22 MR. SMITH: May I -- because of the  
 23 testimony yesterday involving Interstate and  
 24 Interstate having been inadvertently added to this  
 25 list -- that's the way I recall the testimony of

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1 Mr. Heiberger is that they were not -- they did not  
 2 intend to be a party to this and they were a party  
 3 to a separate proceeding.  
 4 Phrased that way, does not the answer to that  
 5 question allow the presence of Interstate on this  
 6 list to lead to the wrong answer?  
 7 MR. WIECZOREK: Well, I apologize  
 8 and I will make that clarification. With the  
 9 exception of Interstate, I believe when I first  
 10 asked him I referenced except Interstate and I  
 11 would say it again. There's a client that he  
 12 provided cost recommendation or information on on  
 13 that list besides Interstate and I'll make that  
 14 clarification.  
 15 MS. SISAK: And I would continue to  
 16 object. If you have testimony or some other  
 17 written document that has been prepared by  
 18 Mr. DeWitte that you want to use to impeach him  
 19 that's one thing, but to just go on a fishing  
 20 expedition with communications he may have had with  
 21 entities that are not a party to this proceeding is  
 22 not at all relevant.  
 23 MR. SMITH: I'm going to let you  
 24 start, but let's keep it as close as we can to  
 25 what's pertinent to this proceeding.

1 MR. WIECZOREK: I will.  
 2 THE WITNESS: Can I make one quick  
 3 comment?  
 4 MR. SMITH: Please.  
 5 THE WITNESS: One of the things that  
 6 I think is important for the Commission and  
 7 everyone else to realize is yes, there are some  
 8 clients of ours on this list. However, one of the  
 9 things that's critically important to understand is  
 10 that our firm provides engineering services and  
 11 regulatory services and outside plant services.  
 12 However, not all of our clients use all of  
 13 those services for everything. So, you know, there  
 14 are companies that are on this list that we have  
 15 had no cost consulting whatsoever with. So, you  
 16 know, some of those, you know, if they're  
 17 participating or, you know, if they've done  
 18 something, I have zero knowledge of it because  
 19 we're not their consultant of record.  
 20 MR. SMITH: Well, I'm going to cut  
 21 through this a little bit because we went through a  
 22 long time with this yesterday and I don't know that  
 23 we ended up anywhere really. And I guess what I  
 24 would like, Talbot, is to lay some kind of a  
 25 relevancy foundation here. Mr. DeWitte's already

1 testified that he had no involvement with this,  
 2 that he basically knew nothing about it, and had no  
 3 knowledge of how the costs that are referenced in  
 4 here and the whole technical scheme was developed  
 5 or even what the status of it is.  
 6 So maybe the place to start is to try to  
 7 establish whether there's some relevancy connection  
 8 here, and then if there isn't, I'm not going to  
 9 allow the testimony to proceed relative to this  
 10 exhibit.  
 11 MR. WIECZOREK: And I understand.  
 12 And the thing about it is I asked him whether he  
 13 did LNP cost analysis for any of the companies in  
 14 Minnesota, that's how I started my question, and  
 15 I'm trying to establish that relevancy. The next  
 16 question was are any of the people you did the LNP  
 17 cost analysis for on this list excluding  
 18 Interstate.  
 19 So I'm not trying to open up everything here,  
 20 I'm trying to keep it as limited as possible. I'd  
 21 ask that question. I'd ask if he could answer that  
 22 question.  
 23 MR. SMITH: You may answer the  
 24 question.  
 25 A The only one on this list that -- well, actually

1 there's two on this list that I'm aware of -- do I need  
 2 to --  
 3 MR. WIECZOREK: I'm not asking  
 4 names.  
 5 MR. SMITH: Don't name a name.  
 6 A Okay. But the thing that's puzzling to me is that both  
 7 of them filed separate petitions. So I'm not even  
 8 aware that they're a party of this.  
 9 MR. SMITH: Thank you.  
 10 MR. WIECZOREK: So although they're  
 11 on the list and represented by MIC as being a party  
 12 to this, you don't know whether their party filed  
 13 separate petitions?  
 14 A I know they filed separate petitions.  
 15 Q Did you give the cost analysis for those separate  
 16 petitions?  
 17 A Yes.  
 18 Q Did you use the same cost analysis you're using today  
 19 in front of this Commission?  
 20 A Yes.  
 21 Q Through your work with companies here in the state  
 22 you're familiar with SDTA; correct?  
 23 A Yes.  
 24 Q And have you worked with SDTA before on behalf of the  
 25 companies?

1 A Yes.  
 2 Q Okay. And you would agree that SDTA often tries to cut  
 3 costs for its members by putting together negotiations  
 4 for connection agreements and doing that all at one  
 5 point rather than each member negotiating separate  
 6 connection agreements with like, say, Western Wireless?  
 7 A I'm aware that SDTA gets involved in issues that  
 8 concern the telecommunications industry in South Dakota  
 9 or the rural telecommunications industry in  
 10 South Dakota as a whole. I guess that, you know, I  
 11 know that a lot of companies negotiate separate  
 12 agreements outside of SDTA. But I do know that SDTA is  
 13 involved in things that are for the common good of  
 14 rural South Dakota.  
 15 Q Right. And when you did your cost analysis, all of  
 16 this cost analysis on marketing flyers, customer care,  
 17 training, you assumed that every company you were  
 18 testifying for go out and do this on its own; correct?  
 19 A I don't know that I actually, you know, made that type  
 20 of decision. What these costs represent are if each  
 21 company, you know, has to do LNP on their own, which  
 22 they do, you know, these are the costs that would be  
 23 associated with such a -- with, you know, such an  
 24 implementation.  
 25 Q In your testimony you talk about how efficient these

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1 companies are but you have marketing flyers that are  
 2 going to cost each one of the companies you're  
 3 testifying for \$15,000 to come up with; correct?  
 4 A I believe that -- hold that thought. We revised that.  
 5 Q If you look at Exhibit 3A of your rebuttal testimony --  
 6 A Yeah. Hang on a second. Here we go. Yes.  
 7 Q So if my math's right, 7 times 15 is \$105,000 to come  
 8 up with marketing flyers for these seven companies?  
 9 A Yes.  
 10 Q And these marketing flyers you're representing would be  
 11 sent out to the individuals explaining the LNP, their  
 12 customers?  
 13 A That is correct.  
 14 Q You're not assuming that any of these companies work  
 15 together to come together with the common language or  
 16 hire one company to put together common language to  
 17 send out to their customers?  
 18 A That is one thing that, you know, is absolutely  
 19 possible. However, the fact of the matter remains is  
 20 if each company decides to customize it to, you know,  
 21 have their own logos, their own artwork, their own  
 22 postproduction, their own copies, their own mailings,  
 23 all of those types of things, then these numbers are in  
 24 fact accurate.  
 25 Q Yeah. But all I'm asking so the Commission

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1 understands, in your cost estimates you haven't assumed  
 2 any efficiencies of these companies going together to  
 3 accomplish any of this marketing; right?  
 4 A No, I have not. But I guess that, you know, I'd also  
 5 like to point out that, you know, we did revise those  
 6 numbers and we did base them on a -- on some  
 7 correspondence with a marketing company.  
 8 So, you know, the fact remains that if each  
 9 company made the decision, which is fully within their  
 10 rights to do, to develop their own marketing campaign,  
 11 these are approximately what those costs would be.  
 12 Q Right.  
 13 A And there may be some efficiencies to be gained by  
 14 doing something, but that's an assumption that I can't  
 15 make for all the companies that I don't represent.  
 16 Q And all I'm doing is trying to set forth the  
 17 assumptions you've made in setting forth these costs.  
 18 So you haven't assumed any efficiencies in that  
 19 category?  
 20 A I think that's misrepresented. I've tried to be as  
 21 efficient as possible. And here's an example. If we  
 22 jump ahead to transport costs, you know, one could make  
 23 the assumption that since on any given place in the  
 24 United States you could potentially have two cellular  
 25 wireless carriers, six PCS carriers, and three SMR

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1 carriers, you know, one could actually assume, well,  
 2 gee, if you add all of that up, that would be 11  
 3 carriers. So by rights if we assume each carrier is  
 4 going to connect each place, you know, we could have  
 5 higher numbers. But we did take a look at the  
 6 reasonableness of whether all of those 11 carriers  
 7 would actually be there, and we simply chose the ones  
 8 that are either already there or would likely within  
 9 the next five years offer a service there.  
 10 So I guess I totally do not agree with you  
 11 that, you know, we weren't thinking about efficiencies.  
 12 Q Well, you originally estimated the Interstate marketing  
 13 flyer costs at \$30,000 just to put it together; right?  
 14 A That is correct.  
 15 Q And then you went sometime thereafter and got this  
 16 information and come up with the 15?  
 17 A I had not received final numbers back from the  
 18 marketing firms that I had talked to, and I wanted to  
 19 make sure that, you know, as I am not in the business  
 20 of marketing, that I had something that I could support  
 21 in a hearing such as this and that had some actual  
 22 numbers.  
 23 So, yeah, I did revise those numbers simply  
 24 because I didn't feel comfortable with the numbers that  
 25 I was given initially when we were putting the

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1 petitions together.  
 2 Q Let's just back up a bit. In your original testimony  
 3 on page 2, lines 12 through 13 you've noted that your  
 4 testimony today is only being provided as to technical  
 5 cost issues of implementing LNP; correct?  
 6 A That is correct.  
 7 Q Okay. So you are not testifying as to public interest  
 8 standard in this case at all?  
 9 A No. That is all going to be handled by Mr. Watkins'  
 10 testimony. However, if you do raise an opinion that,  
 11 you know, whether I think it's in the public interest,  
 12 I can certainly tell you.  
 13 Q Well --  
 14 A But --  
 15 Q I'm going to try to restrain myself today.  
 16 A Mr. Watkins is handling those legal issues.  
 17 Q And when we talk about the technical cost issues you'd  
 18 agree with me that, you know, LNP is technically  
 19 feasible -- can be technically done, it's all a matter  
 20 of how much it costs.  
 21 A That's correct. In no -- I'm not going to tell you  
 22 that it technically can't be done, at least for any of  
 23 the clients that we're representing as part of these  
 24 proceedings. And I think that you can take a look at  
 25 anything, and the fact is if you throw enough money at



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1 it, yeah, you can make it work from a technical  
 2 perspective.  
 3 **Q** Let's also talk about the numbers. The last numbers  
 4 you submitted I'm assuming which are your rebuttal  
 5 testimony, those are your most accurate numbers to  
 6 date.  
 7 **A** In Exhibit 3A?  
 8 **Q** Correct.  
 9 **A** Yeah. I think that, you know, what we need to point  
 10 out in Exhibit 3A is that those numbers are based on  
 11 Mr. Williams' numbers and, yes, there were some changes  
 12 that were made, you know, that we actually didn't put a  
 13 few of our numbers back in simply because, you know, in  
 14 terms of taking a look at -- and I actually said this  
 15 in my testimony was, you know, there are some things  
 16 that we included in the original cost estimates, you  
 17 know, perhaps some transiting or whatever that  
 18 obviously go away if we have direct connections and  
 19 things like that.  
 20 We actually left some of those types of  
 21 numbers out when we filed 3A.  
 22 **Q** Numbers that if you had direct connections you wouldn't  
 23 have those costs?  
 24 **A** That's correct.  
 25 **Q** Well, let's talk about some of the specific costs then

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1 since -- I'm going to work off your 3A since that's the  
 2 closest you've got to final numbers. And just as a way  
 3 of clarification, Exhibit No. 5, which was the diagram  
 4 we set up over there, the proposed routing by  
 5 Interstate, you would agree that that shows the  
 6 interconnections that you have proposed in this  
 7 situation, come up with your numbers; correct?  
 8 **A** Well, since my back was to it yesterday.  
 9 **Q** You can turn and look at it right now.  
 10 **A** That appears to be correct, and at this time I should  
 11 probably talk about exactly how we came up with those  
 12 numbers and why we had the number connections.  
 13 **Q** I'll tell you, why don't you let me ask you questions  
 14 and we'll probably get there, and if I don't get there,  
 15 I'm sure Ms. Sisak will take you there. You've got all  
 16 of these interconnections essentially, and you  
 17 assumed -- I believe there was an objection yesterday  
 18 that there wasn't six wireless companies but you  
 19 assumed six wireless companies for your model in  
 20 Interstate; correct?  
 21 **A** That is correct.  
 22 **Q** And I'm just going to keep that up here but I'm going  
 23 to walk you down -- before I get to the transport  
 24 interconnect let's talk first about the LNP software  
 25 numbers and what you have on 5A. And I want to just

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1 ask -- I'll try to restrain myself to specific numbers,  
 2 Interstate numbers, but generally how you came up with  
 3 them so I don't have to repeat it every time you're on  
 4 the stand. I'll try to break that up. If you have a  
 5 question whether I'm referring to Interstate or  
 6 everybody you testified for, please ask me to clarify,  
 7 all right?  
 8 **A** Okay. Before we go there, one of the things that  
 9 appears to be wrong with this exhibit is I only have 3B  
 10 and 3C. I don't have 3A.  
 11 **Q** That's your exhibit that's been marked by your  
 12 clients -- I mean, by your attorneys.  
 13 **A** I think it was just a copying thing. I've got mine.  
 14 **Q** All right. If you've got your original, you can work  
 15 off that.  
 16 MS. POLLMAN ROGERS: We will correct  
 17 that. We intended for the whole thing. It was  
 18 just inadvertence if it was not attached.  
 19 MR. WIECZOREK: Sure. You start  
 20 printing those Excel spreadsheets, it's easy to  
 21 miss a page.  
 22 **Q** Do you have it?  
 23 **A** Yes.  
 24 **Q** All right. The question I have on -- make sure I keep  
 25 the lines right but under Interstate you have an

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1 additional software feature of \$4,000.  
 2 **A** That is correct.  
 3 **Q** And this additional software feature is for directory  
 4 numbering pooling you've even noted in your testimony  
 5 but that's if it's implemented in South Dakota for LNP;  
 6 correct?  
 7 **A** Correct.  
 8 **Q** And it's not been implemented?  
 9 **A** Correct. My thought process there was, you know, part  
 10 of the goal in looking at these numbers in their  
 11 entirety is to look at things that could potentially go  
 12 into an end-user charge. I didn't calculate an  
 13 end-user charge in here. I was simply identifying  
 14 potential costs that could go into that. The thought  
 15 process was the potential between now and the next five  
 16 years number pooling may in fact actually be a  
 17 requirement.  
 18 **Q** Right. But in today's world it's not required?  
 19 **A** Not in South Dakota at this time, correct.  
 20 **Q** All right. And you have no -- it may not be required  
 21 in the next five years too?  
 22 **A** It may not be, but the possibility exists that it could  
 23 be.  
 24 **Q** The possibility exists. You have additional -- under  
 25 Interstate again, you have additional vendor fees of

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1 \$5,000, and that's to process RUS paperwork; correct?

2 **A** That is a combination of things. Getting into the

3 details of how various vendors administer their

4 software programs. It's important to note that in

5 Interstate's case specifically they have a Nortel

6 Network DMS-10 network. Nortel has several different

7 programs and upgrades and things like that.

8 While we haven't talked about it yet, you

9 know, their software fees are administered by a program

10 price, program price means it is what it is. And they

11 have a mathematical formula that you can use to

12 determine what that number needs to be.

13 In the case of this, the assumption -- or

14 the -- it was an assumption. The thing we're going

15 after there is that in order to actually upgrade and,

16 you know, get everything processed correctly with RUS

17 and through their system to get any software upgrade

18 that is done, the cost to, you know, get all of that

19 implemented would be approximately \$5,000.

20 **Q** Let's just talk generally about your switch-related

21 investment costs.

22 **A** Uh-huh.

23 **Q** It's my understanding that you didn't get quotes for

24 the LPN hardware requirements, you just called up or

25 had this knowledge based on your background. Is that a

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1 correct statement?

2 **A** That is a correct statement. My background includes

3 working over 10 years with Nortel Networks on both the

4 DMS-10 and the DMS-100 portfolio of products. And as a

5 result of that experience and my day-to-day experience

6 in engineering, I mean, this is what we do. I mean,

7 I've seen countless proposals for, you know, a variety

8 of different things that are switch related, and we

9 have good vendor relationships with our vendors.

10 And one of the things that I find it

11 important to do is not abuse those relationships by

12 unnecessarily getting proposals for things that we

13 aren't, you know -- you know, for a piece of what may

14 be included in some other larger project.

15 So the methodology that we used to get these

16 numbers was I simply placed a call to the Nortel sales

17 and I said, well, you know, our clients are looking at

18 having to implement LNP, you know, what are the

19 specifics that I need to be aware of for prerequisite

20 hardware and software as well as, you know, what

21 programs, if any, are there available to do LNP. He

22 told me what they were. I can take a look at our

23 client's switching configuration and, you know, come up

24 with a fairly accurate -- not to the penny, of course,

25 but an accurate representation of what those expected

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1 upgrade costs would be.

2 **Q** Okay. What's it cost to have Qwest install a two-way

3 trunk group?

4 **A** I don't know what Qwest's contractual -- or what their

5 cost structures are.

6 **Q** Okay. You just spent the last two minutes explaining

7 your great background.

8 **A** I can tell you what the hardware cost would be.

9 **Q** What's the hardware cost?

10 **A** The hardware's already there so I don't know what their

11 internal processes would be to do any labor, any of

12 their internal support or any of those types of things

13 to make it work.

14 **Q** Okay.

15 **A** The trunk group's already there, the hardware's there.

16 **Q** The hardware's there, there's no cost for hardware?

17 **A** Unless it's an older piece of hardware that perhaps

18 needs to be changed out to support to two-way. But

19 without seeing what their switch configuration is with

20 the product codes, I can't say for certainty that it's

21 zero cost, but my assumption would be that it would be

22 little or no hardware cost.

23 **Q** Do you have any idea what the man-hour cost might be to

24 make a one-way trunk two-way?

25 **A** I don't know what Qwest's cost structures of those

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1 things are.

2 **Q** You seem to think it's pretty easy to call Nortel and

3 get quotes. You could have as part of your cost

4 analysis here just called Qwest and asked them that

5 too, couldn't you?

6 **A** Except Qwest isn't a client and they wouldn't have told

7 me if I would have called them. Typically Qwest holds

8 all of that kind of stuff tight to the vest. So I

9 guess I would have to disagree with you. I couldn't

10 call Qwest and have them give me a quote for what it

11 would cost.

12 **Q** You're telling me if on behalf of Interstate you called

13 Qwest and said Interstate's my client, they want to

14 look at what it would cost to do a two-way trunk group,

15 what would it cost, they wouldn't tell you?

16 **A** I don't think that would be enough information for them

17 to give us a quote. Because it doesn't include all of

18 the underlying things that are associated with making

19 that type of change.

20 First of all, on Interstate's side we

21 wouldn't be able to, you know, evaluate what that would

22 cost Interstate from the standpoint of, you know, their

23 existing contracts that they have with other carriers,

24 the way that their network is set up, you know, their

25 settlement issues, their regulatory issues, all of

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1 those types of things.

2 Then on Qwest's side, you know, the first

3 thing that we would have to provide to Qwest is what

4 type of traffic is expected to come up and down that,

5 and we don't even know that. We would have -- you

6 know, are we talking one carrier, are we talking all

7 the carriers. I think that you've asked me an

8 ambiguous question that it has no simple answer.

9 **Q** Yeah. But you could get enough detail from Interstate

10 to go to Nortel and get a quote what it would cost to

11 update their switches?

12 **A** True. That is a completely different question.

13 **Q** I understand that. Are you telling this Commission you

14 couldn't get enough information from Interstate to even

15 get a number out of Qwest or a range?

16 **A** I think that what you're asking is not a trivial, you

17 know, give me a number for this type of question. You

18 know, you seem to be confusing the hardware costs,

19 which are relatively, you know, easy to look at, but,

20 you know, we're talking about a process and a

21 configuration that's been in place for years that's had

22 regulatory approval. And, you know, Interstate has no

23 agreement with Qwest to even do a one-way trunk. So

24 asking how much does it cost to convert it is not the

25 entire question that you'd have to ask them.

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1 **Q** So is it your testimony that Interstate couldn't get an

2 agreement, an Interconnection Agreement to do a two-way

3 trunk?

4 **A** That's not my testimony.

5 **Q** Okay.

6 **A** My testimony is is that if I were to call Qwest up and

7 ask them how much it would cost to convert it they

8 would not be able to tell me because I haven't given

9 them enough information.

10 **Q** But you could get the information if you wanted to from

11 your client?

12 **A** I don't believe I could. I mean, I could get the

13 information from Interstate. However, you know, I

14 don't know how Qwest handles those types of things or

15 what agreements they have in place. So I wouldn't be

16 able to know how it fits in their framework.

17 **Q** Right. And one of the reasons you don't know is you

18 never checked in preparation for this testimony, did

19 you?

20 **A** I don't know if I agree with that assertion.

21 **Q** Did you check?

22 **A** The thing that I checked was do we have an agreement

23 with Qwest, yes or no.

24 **Q** Right.

25 **A** And the answer to that is, no, we do not. Given the

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1 time frame that we had to put this together, we didn't

2 have time to negotiate with every possible carrier for

3 the infinite number of configurations that would likely

4 be possible.

5 **Q** Did you ever look at the Qwest tariff?

6 **A** I have looked at the Qwest tariff in the past. I don't

7 believe I looked at the Qwest tariff specific to this

8 proceeding because the answer that I just gave where,

9 you know, we don't have an agreement or an arrangement

10 with Qwest today for two-way facilities.

11 **Q** The information on costs for a two-way trunk is in

12 Qwest's tariff, isn't it?

13 **A** I don't know. I don't.

14 **Q** Okay. That's fair. So essentially you're telling this

15 Commission that if there wasn't an agreement for

16 two-way traffic over that trunk, you didn't even bother

17 to look at what the cost would be to do it that way?

18 **A** That's correct because that didn't fit into the

19 framework of the existing rules including the

20 reciprocal compensation agreement that was there. The

21 way that we looked at this was, okay, the Telecom Act

22 says, I believe, and I'm paraphrasing --

23 **Q** I'm just saying you didn't look at it, and you say

24 that's correct. That's enough. And if you want

25 further explanation, Mary can ask those questions on

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1 redirect.

2 MS. SISK: I'm sorry. Is there an

3 objection here to your witness?

4 MR. WIECZOREK: I'm objecting to

5 rambling. He's not my witness.

6 MS. SISK: To your own question?

7 MR. WIECZOREK: I'm objecting to the

8 answer as being nonresponsive.

9 MS. SISK: I would ask the

10 Commission to rule whether they agree the answer's

11 nonresponsive.

12 MR. SMITH: Would you please confine

13 your answers as close as possible to the question

14 that Mr. Wieczorek is asking?

15 THE WITNESS: Certainly.

16 **Q** So let's go back to your Exhibit 3A.

17 **A** Okay.

18 **Q** Your wireless carrier point of interconnect, and I want

19 to ask you specifically about Interstate went from 500

20 about \$67,000 to \$720,000 from your direct testimony to

21 your rebuttal testimony without explanation.

22 MS. SISK: Could you repeat the

23 question?

24 MR. WIECZOREK: His point of

25 interconnect under transport-related costs, the

1 first one from Interstate goes to 720,000 from 576  
 2 in his direct testimony, and I wanted to know, you  
 3 know, why the major jump.  
 4 **Q** There is no explanation in your rebuttal testimony.  
 5 **A** I guess I'm going to have to check that.  
 6 THE WITNESS: Could I have a moment  
 7 to do some math?  
 8 MR. SMITH: Uh-huh.  
 9 (Pause)  
 10 MR. SMITH: Mr. Chairman, it's noon.  
 11 Should we give the witness a little time to do his  
 12 calculations over the break?  
 13 CHAIRMAN SAHR: Sounds good.  
 14 MR. SMITH: Commissioners, when do  
 15 you want to convene?  
 16 CHAIRMAN SAHR: Let's start back at  
 17 1:15.  
 18 (A lunch recess is taken)  
 19 MR. SMITH: Mr. Wieczorek, we are  
 20 back in session and, Mr. DeWitte, have you had time  
 21 to perform your calculation?  
 22 THE WITNESS: Yes, I have.  
 23 MR. SMITH: Please proceed.  
 24 **Q** (BY MR. WIECZOREK) In performing your calculations did  
 25 you find a mistake on Exhibit 3 to your rebuttal

1 testimony?  
 2 **A** I did.  
 3 **Q** Okay. Could you describe to the Commission what the  
 4 mistake is?  
 5 **A** Concerning the number that is for ITC, and if you have  
 6 the color -- I guess you don't. Anyway, under  
 7 transport-related costs there's a nonrecurring cost of  
 8 720,000 which was mathematically arrived at by taking  
 9 six carriers times 5,000 times -- of course I didn't  
 10 write down the formula but anyway the bottom line is I  
 11 inadvertently used 5,000 as opposed to 4,000 which was  
 12 in my original exhibit so the true number should be  
 13 576,000.  
 14 **Q** And, Mr. DeWitte, that number, that change should also  
 15 be made on the second page of that too; is that  
 16 correct?  
 17 **A** Yes. That would carry through to Exhibits 3A, 3B, and  
 18 3C.  
 19 MR. WIECZOREK: If the Commission  
 20 has a preference, I'd ask Mr. DeWitte to change the  
 21 documents so it properly reflects the number either  
 22 on the admitted exhibit or he has offered to rerun  
 23 it and provide it and supplement later.  
 24 MR. SMITH: I think the preference  
 25 over here is to rerun it, but other counsel?

1 MR. WIECZOREK: I have no objection  
 2 to that format or that approach.  
 3 MR. SMITH: Okay. Why don't we do  
 4 that.  
 5 COMMISSIONER BURG: Can I ask a  
 6 clarifying question?  
 7 MR. SMITH: Please.  
 8 COMMISSIONER BURG: Am I right that  
 9 what you're doing now is saying both documents  
 10 should have the same figure as the first document?  
 11 THE WITNESS: No. Actually in my  
 12 original prefiled testimony when I was calculating  
 13 transport costs I used on a per DS-1 the number  
 14 that I was using for the nonrecurring piece for  
 15 that was 4,000 on my original exhibit.  
 16 When I was revising Mr. Williams' exhibit,  
 17 which was 5B, to incorporate into my rebuttal  
 18 testimony as Exhibit 3A I inadvertently used an  
 19 incorrect factor in the formula, which was 5,000 as  
 20 opposed to 4,000. So that flows through to all  
 21 three pages of the exhibit. So in essence what I'm  
 22 doing is making it match the number that I had  
 23 presented in my earlier testimony.  
 24 COMMISSIONER BURG: Yeah. That was  
 25 my question.

1 MR. GERDES: Excuse me. What is the  
 2 number supposed to be?  
 3 THE WITNESS: 576,000.  
 4 **Q** The number is not, Mr. DeWitte, reflected on Exhibit 5A  
 5 which is represented by poster board up there, if you  
 6 look over there as the install cost?  
 7 **A** That's correct.  
 8 **Q** That's your correct number?  
 9 **A** That's my correct number.  
 10 COMMISSIONER BURG: For both?  
 11 MR. WIECZOREK: For both pages A and  
 12 B through 3.  
 13 THE WITNESS: Actually 3A, 3B, and  
 14 3C.  
 15 **Q** I didn't think that number carried through.  
 16 **A** Yes, it does.  
 17 **Q** Okay. And 3C. Okay. All right.  
 18 MR. WIECZOREK: Are there any  
 19 further questions on that revision? Otherwise I'll  
 20 just begin my questioning again.  
 21 MR. SMITH: And the understanding of  
 22 course is that will flow all the way through to the  
 23 bottom in terms of its effect on the per-customer  
 24 charge?  
 25 THE WITNESS: Correct. That's why I

1 was wondering if you would like me to resubmit the  
2 document because that number is used in subsequent  
3 calculations.

4 MR. SMITH: As I understand, the  
5 agreement of counsel here is that's what you want  
6 is to have those automatic calculations done.

7 MR. GERDES: Yes.

8 MS. POLLMAN ROGERS: I think it  
9 would be clearer for everyone.

10 MR. WIECZOREK: I'm agreeable.

11 MR. SMITH: The parties so stipulate  
12 and that's what we'll do. Please proceed.

13 MR. WIECZOREK: Thank you.

14 Q On this cost analysis, we've been talking about your  
15 rebuttal Exhibit 3, did you look to see if this cost  
16 model was consistent with the NECA format?

17 A NECA format meaning what?

18 Q There's a NECA cost format for LNP cost implementation.  
19 Did you look at that at all to come up with this cost?

20 A I'm not sure what you mean. I'm not representing this  
21 to be an end-user charge. I'm just identifying costs.  
22 So for a spreadsheet that identifies costs, I guess I  
23 wasn't aware that NECA had a format for that.

24 Q Okay. But your spreadsheet does identify a final  
25 number that's been represented, I believe, through the

1 testimony as being an end-user charge?

2 A I don't believe that I referenced that as an end-user  
3 charge. I believe I referenced that as a total  
4 implementation cost expressed in a per-subscriber  
5 basis. You know, I guess that, you know, I wasn't  
6 representing what would be or would not be included in  
7 an end-user charge. I was simply trying to point out  
8 what the total costs were.

9 Q Okay. So to the extent that any of the company  
10 testimony has represented that these are going to be  
11 actual costs to the consumers, you're not saying that?

12 A No. I'm not saying that that would be a NECA end-user  
13 charge. What I'm saying is this is what the impact of  
14 LNP implementation would be.

15 Q Okay.

16 A And I wasn't making a representation as to who paid.

17 Q All right. So you're not saying that the LNP cost per  
18 line would actually all flow through on a per-line  
19 charge for every customer? If I understand your  
20 testimony right you're saying the company could pick  
21 some of that up and decide not to pass it along?

22 A Either the company or, you know, perhaps the wireless  
23 carriers as it relates to transport.

24 Q Okay. Let's talk about the transport issue. That  
25 appears to me to be the biggest cost item on your

1 analysis. Wouldn't you agree?

2 A I would agree.

3 Q And before we go to the actual numbers, I'd like to --  
4 do you still have your rebuttal testimony in front of  
5 you?

6 A Yes, I do.

7 Q Okay. Could you turn to page 5, line 8, please.

8 A I'm there.

9 Q Okay. Could you read the first sentence of that  
10 paragraph, please, out loud.

11 A "While there may be more efficient network trunking  
12 configurations that could be implemented as  
13 Mr. Williams asserts in his direct testimony, there are  
14 no Interconnection Agreements or reciprocal  
15 compensation agreements in place for alternative  
16 arrangements. Petitioners cannot require other  
17 carriers to agree to other arrangements."

18 Q Okay. As I understand that sentence, what you're  
19 saying is while what Western Wireless has proposed  
20 could be done, the agreements to transport traffic that  
21 way are not in place?

22 A That's correct. And I'd like to -- if you would like,  
23 I can kind of pause and talk about where those  
24 transport numbers came from.

25 Q Why don't I -- I've got a bunch of transport questions.

1 Why don't I go through those first.

2 A Okay.

3 Q And staying where in the testimony you are right there,  
4 if you go on in the next sentence could you read that  
5 out loud too?

6 A "One way to address the impasse over transport costs  
7 may be to allow the Petitioners to investigate  
8 alternative transport options and then offer those  
9 alternatives to carriers who wish to transport  
10 numbers."

11 Q When you talk about alternative transport numbers  
12 you're talking about options to alternatives to the  
13 routing proposal that you have that's been reflected on  
14 Exhibit 5A?

15 A I'm talking about the infinite number of choices there  
16 are for transport. You know, the method that we came  
17 up with and that we used that we know will work in our  
18 petition as well as, you know, there are literally  
19 hundreds of others that may actually work. But, you  
20 know, those all require changes in negotiations and,  
21 you know, one thing that we wanted to ensure that we  
22 did not do is assume things that weren't actually there  
23 and thus misrepresent costs.

24 Q Okay. What has been marked as Western Wireless  
25 Exhibit 5, the first page was that interconnection

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1 numbers that you proposed and the second page has been  
 2 this tandem routing options that Western Wireless  
 3 claims is available to Interstate Telecom. You would  
 4 agree this is one of the potential options out there  
 5 for routing this traffic?  
 6 **A** Without evaluating that option in its entirety I can't  
 7 say for sure whether it's a viable option or not. The  
 8 issue that --  
 9 **Q** Let me ask -- before you go on, let me ask a follow-up  
 10 to what you said.  
 11 **A** Okay.  
 12 **Q** What you're telling this Commission is you have not  
 13 evaluated that type of routing system for Interstate  
 14 Telecom; correct?  
 15 **A** I have not evaluated what you have on that board, no.  
 16 **Q** Have you evaluated that kind of routing system for any  
 17 other people you're testifying for in these LNP  
 18 Dockets?  
 19 **A** No, I have not.  
 20 **Q** Okay. Now you say you haven't evaluated these other  
 21 routing systems. Do you know whether any of the  
 22 companies you're testifying for, any of their people  
 23 have evaluated any of these other routing options?  
 24 **A** Not to my knowledge.  
 25 **Q** Okay. You were here yesterday when Mr. Heiberger

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1 testified; correct?  
 2 **A** Yes.  
 3 **Q** And you heard Mr. Heiberger testify about how he had  
 4 been offended that Western Wireless implied in filings  
 5 that they actually delayed their filing for LNP so they  
 6 could just buy time. Do you recall that?  
 7 **A** Yes, I do.  
 8 **Q** He said he had done a thorough investigation of options  
 9 available to Interstate. During that investigation did  
 10 you assist him at all?  
 11 **A** We had conversations as to what the Order means, how we  
 12 would interpret it and what tools we had at our  
 13 disposal in order to route traffic.  
 14 **Q** Okay. As his expert on routing, at least for this  
 15 forum, did you ever suggest talking about or looking at  
 16 these other routing options?  
 17 **A** We did not --  
 18 **Q** Did you ever suggest that?  
 19 **A** No. And the reason that we didn't suggest it is  
 20 because the arrangements that Western Wireless and  
 21 other carriers have with Qwest are their arrangements  
 22 and they're not ours.  
 23 **Q** All right.  
 24 **A** And we're not able to negotiate with Qwest on something  
 25 that isn't even our facility or our agreement.

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1 **Q** Are you saying you can't -- I mean, you testified this  
 2 morning you hadn't talked to Qwest as to whether you  
 3 could arrange for the one-way trunk group to be changed  
 4 into a two-way trunk group. Did you talk to Qwest over  
 5 lunch and find out you can't do that?  
 6 **A** No. What I'm saying is that the arrangements -- the  
 7 reason we didn't contact Qwest was simply that the  
 8 arrangements that you, Western Wireless, and other  
 9 carriers may have with Qwest are your contractual  
 10 arrangements, they're not ITC's.  
 11 So the transiting traffic and the transiting  
 12 arrangement that you have with Qwest today to terminate  
 13 down that one-way pipe that goes into ITC's exchange,  
 14 we're not at liberty to renegotiate some contract that  
 15 we're not a party to.  
 16 **Q** You were here yesterday when Mr. Heiberger testified;  
 17 correct?  
 18 **A** Yes.  
 19 **Q** You understand that Western Wireless sent him a BFR?  
 20 **A** Yes.  
 21 **Q** And then he responded saying he was going to  
 22 investigate various options?  
 23 **A** Yes.  
 24 **Q** And then Western Wireless sent a follow-up and  
 25 basically said let us know if you have any questions,

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1 let's start talking; correct?  
 2 **A** Yes.  
 3 **Q** And you heard Mr. Heiberger testify he never bothered  
 4 to call Qwest to ask them whether there's a better  
 5 route or whether they had a system in getting this  
 6 two-way trunk; correct?  
 7 MS. SIAK: I'd like to object to  
 8 this line of questioning. Can you please, rather  
 9 than pose questions which may or may not be in the  
 10 record, can we have the record read back so we know  
 11 exactly what Mr. Heiberger said?  
 12 MR. WIECZOREK: I believe it's a  
 13 standard approach if she has an objection to the  
 14 misstatement of the record, she can make it and it  
 15 can be ruled on. If we're going to have to go  
 16 through the record it will greatly increase the  
 17 time.  
 18 MR. SMITH: I'm going to overrule  
 19 the objection.  
 20 THE WITNESS: Could you repeat the  
 21 question.  
 22 (Reporter reads back last question)  
 23 **A** I guess the way I'll answer that is I don't understand  
 24 what better means, whether -- you know, better route.  
 25 Does better mean --

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1 Q I'll define it for you.

2 A Okay.

3 Q How about cheaper?

4 A I don't believe that we have all the cost variables

5 available to even investigate whether that's cheaper or

6 not. The costs of the transport is but one of the

7 factors that would go into such a study. Other things

8 that would go into it would be what the settlement

9 impact would be, what effect that would have on their

10 frozen factors, what other contractual obligations they

11 have with other carriers for such traffic.

12 And on top of that those agreements are your

13 agreements, not ours so, you know, if we would have

14 contacted Qwest and said this is my supposition we'd

15 like to look at, that the first thing they say is you

16 don't have a contract with us. You know, that type of

17 thing I would assume would be something that Western

18 Wireless would negotiate with Qwest and then present to

19 a carrier as an alternative.

20 Q Do you still have your rebuttal testimony in front of

21 you?

22 A Yes.

23 Q Your answer kind of takes us to the last part of that

24 paragraph starting on line 14 where you state,

25 "Carriers like WWC could then either negotiate direct

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1 connections through the interconnection process, choose

2 to use the alternative transport option," and just so I

3 make sure I understand what you're saying, the

4 alternative transport option, you're talking about what

5 Mr. Williams proposed; correct?

6 A Actually that should be options, plural.

7 Q Okay. So multiple options for routing?

8 A Yes.

9 Q Or choose not to port with particular Petitioner. This

10 would seem to be a fair alternative than simply placing

11 the entire burden of transport on Petitioners and their

12 end-user customers.

13 And you're concerned about that burden

14 because for like Interstate it's in excess of 2.5

15 million in the first year; right?

16 A Correct.

17 Q And that's a major concern to you given the cost of

18 that item?

19 A That is correct.

20 Q Do you know whether any of these alternative options

21 cost over 200,000 a year in the first year?

22 A Without having new agreements in place and some new

23 rates to work with, what we had at our disposal to use

24 were the contracts that are existing in place today and

25 the methodology that we use and what we -- the way that

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1 we looked at this is if you take a look at LNP and the

2 way that it's defined, LNP, if we have a level playing

3 field and we have -- we have porting that's available

4 in all of the exchanges, the idea there is that Western

5 Wireless or any other carrier that chooses to offer

6 service in a particular exchange could either get an

7 NPA NXX for every exchange where they want to have a

8 local presence or they could get one NPA NXX for a

9 local service area, if you will, establish a POI in

10 that exchange and then, you know, have transport. And

11 typically that transport is ordered and paid for by the

12 carrier requesting the service from that POI that's

13 inside the -- you know, a Petitioner's exchange to

14 wherever you would like to take it.

15 MR. WIECZOREK: I would move to

16 strike everything from where he said, The way we

17 looked at this. It was nonresponsive to the

18 question and it was just a repeat of what he said

19 he used as a standard this morning.

20 MS. SISK: May I have the question

21 read back so I can evaluate that.

22 MR. WIECZOREK: Sure.

23 (Reporter reads back last question)

24 MS. SISK: I would respectfully

25 suggest that the question opens up the door for all

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1 discussion on options concerning transport and

2 routing of traffic.

3 MR. SMITH: I'm going to sustain the

4 objection and let you get into that on redirect.

5 And, again, I would urge the witness to keep it

6 crisp and confined to the question and then let

7 your lawyers let you elaborate.

8 THE WITNESS: Understood.

9 Q So if I understand the portion of your answer that

10 wasn't struck is, no, you don't know?

11 THE WITNESS: Could you read back

12 the first part of my answer. I think you are

13 correct.

14 Q Yeah. You don't know whether any of these other

15 options cost over 200,000?

16 A That's correct.

17 MS. SISK: I would like the

18 question and answer read back so that the witness

19 can confirm accurately as he requested.

20 (Reporter reads back question and partial answer)

21 MR. WIECZOREK: At this point I

22 believe that's been stricken from that spot. So

23 the answer was --

24 MS. SISK: Can you please read back

25 the final question.

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1 (Reporter reads back requested portion)

2 A And then the response is correct, the answer is no.

3 (Discussion off the record)

4 Q Looking again at your rebuttal testimony, that line 14,

5 the last two sentences, you talk about -- you talk

6 about giving Western Wireless a chance to either

7 negotiate direct connections through interconnections

8 or choose the alternative transport, and you say that

9 should be options, not just option; correct?

10 A Correct. What I'm saying is that with --

11 Q It's just supposed to be options?

12 A Right.

13 Q Let me finish my question as to that.

14 A Okay.

15 Q Did Interstate, did you -- did any of the companies

16 that you're testifying here on behalf and have

17 submitted this testimony for contact Western Wireless

18 after they got the BFR and say, hey, maybe we need to

19 look at renegotiating these interconnections because

20 that would be a much more cost feasible way to do LNP?

21 A The answer to that is no.

22 Q Okay.

23 A And the reason the answer to that is no is because what

24 we would negotiate with Western Wireless may not work

25 for the other carriers and we need a solution that

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1 works well for all the carriers, not just Western

2 Wireless.

3 Q You could have said that to every carrier requesting

4 BFRs. You could have made the same request, couldn't

5 you?

6 A Right. But we would like to negotiate with all the

7 carriers as a group rather than individuals.

8 Q This is not part of this Docket but it seems to get

9 back into how do we even know you're going to negotiate

10 when every request we send to you there's no response

11 to?

12 MS. SISAK: Excuse me. I object.

13 You stated it was not part of this Docket so I

14 would object that counsel has admitted it's not

15 relevant.

16 MR. WIECZOREK: Well, I think it's

17 relevant, quite frankly --

18 MR. SMITH: I'm going to sustain it

19 as argumentative. If you want to rephrase it, go

20 ahead.

21 Q How is Western Wireless or all of these other cell

22 phone companies supposed to know you're looking at what

23 you propose in your own testimony is a fair alternative

24 unless you tell them that you're willing to look at

25 these other options?

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1 A I guess that --

2 Q If you know, you know. I'm not asking you to guess.

3 A Okay. I'll rephrase my answer. The reason we hadn't

4 contacted anybody as an industry group was because you

5 have a position yourself as one, and, second, due to

6 the limited amount of time that we had to put these

7 petitions together, we needed to have something that we

8 absolutely knew would work in the absence of any new

9 negotiations or any new costs and then, you know,

10 present those costs, present why they -- you know, why

11 they're accurate, you know, this is the configuration

12 that we absolutely know will work and then if there's

13 other options that can be explored we can certainly

14 explore those.

15 Q Okay.

16 A But we have a number of carriers besides Western

17 Wireless that would be affected by any negotiations

18 with any single carrier.

19 Q And you have not notified any of them you're willing to

20 negotiate and try to come up with a different

21 Interconnection Agreement; correct?

22 A Correct.

23 Q And neither have any of the companies you represent as

24 far as you know?

25 A As far as I know.

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1 Q Let's go back to your 3A exhibit. Looking at the

2 Interstate number, you are claiming or your numbers

3 represent to provide LNP the way you're proposing,

4 install costs alone is 576,000; correct?

5 A Correct.

6 Q And then every month thereafter they have a monthly

7 recurring charge of \$157,400.

8 A 442.

9 Q Sure. I was just trying to round.

10 A Yeah.

11 Q Start talking that big and it gets -- \$42 doesn't seem

12 to be that big of a deal.

13 A But I know you used the 576. I wanted to make sure we

14 were reading off the same page.

15 Q Sure. You also in that exhibit show it's going to cost

16 \$325,000, and this is a little small so I'm not sure if

17 that's 500 or 325,000 even. Do you know what it is?

18 A Yes.

19 Q What is it?

20 A 325,000 even.

21 Q Okay. That James Valley would have to incur to

22 basically do the same points of interconnection plan

23 that you're telling this Commission is what you're

24 going to have -- what you believe your clients are

25 going to have to do.



1 You were here this morning when it was placed  
 2 on public record, the stipulation and open hearing what  
 3 James Valley is going to do to provide LNP; correct?  
 4 A Correct.  
 5 Q And they're not going to incur anywhere near \$325,000  
 6 to provide LNP through that method, are they?  
 7 A No. That number has been reduced as a result of the  
 8 negotiation and the numbers that have been negotiated  
 9 with Western Wireless. However, that doesn't address,  
 10 you know, other carriers other than, you know, James  
 11 Valley is in a position to make the same offer that  
 12 they made with Western Wireless available to those  
 13 other carriers. Whether they'll accept it or not is  
 14 another story.  
 15 Q Right. And in fact that number for James Valley goes  
 16 virtually to zero, doesn't it, under the arrangements  
 17 made and what's set forth on the record earlier today?  
 18 A I --  
 19 MS. SISAK: I believe the witness  
 20 has already answered this does not apply to other  
 21 wireless carriers that interconnect with James  
 22 Valley.  
 23 Q I'll ask a hypothetical. How many cell carriers apply  
 24 to James Valley? Five or six or do you know?  
 25 A I'll have to look it up quick.

1 Q Okay.  
 2 A Bear with me a second.  
 3 (Witness examines document)  
 4 A The answer is five.  
 5 Q Five. So let's assume all five get LNP porting  
 6 hypothetically as laid out in front of the Commission  
 7 this morning. That cost for the install would be --  
 8 would it be in excess of \$10,000 for -- that's total  
 9 cumulative?  
 10 A I guess I don't know exactly what the numbers that are  
 11 in the James Valley agreement are. I don't recall them  
 12 off the top of my head. I heard, you know, the  
 13 stipulation as it was read, and I have a basic  
 14 understanding of what's going on there. However, I  
 15 think the salient point there is that the reason the  
 16 transport goes away is because the carrier is willing  
 17 to take the burden for payment of that said transport.  
 18 Q If you built those transports into the costs of all of  
 19 these carriers you're testifying for; right?  
 20 A That is correct.  
 21 Q Let's even assume -- you said it was \$4,000 for point  
 22 of interconnect, right, in your testimony?  
 23 A Correct.  
 24 Q And five carriers using one point of interconnect each,  
 25 4 times 5 is 20,000; correct?

1 A Correct.  
 2 Q So James Valley under that scenario spends 20,000 to  
 3 install the cost versus 325,000. Do you agree?  
 4 A However --  
 5 Q Agree with me first.  
 6 A Yeah. I agree your math is correct.  
 7 Q Do you agree that's the cost James Valley gets for the  
 8 install costs for those lines under my hypothetical?  
 9 A Under your hypothetical, yes.  
 10 Q Because all that your cost is is \$4,000 per point of  
 11 interconnect; right? That's your cost on this sheet,  
 12 3A?  
 13 A Right. And the reason it's higher than the numbers you  
 14 just gave in your hypothetical is because if we take a  
 15 look at what could occur in the next five years, we  
 16 could potentially have multiple point of  
 17 interconnections, you know, potentially in every  
 18 exchange James Valley has if the NPA NXXs are ordered.  
 19 Your case is a little bit special in that, you know,  
 20 you only have the one NPA NXX that you're dealing with  
 21 but you are in fact, you know, providing a point of  
 22 interconnection through the umbilicals to every one of  
 23 their local service areas.  
 24 Q Do you know whether that's different for the other four  
 25 companies?

1 A What other four companies?  
 2 Q The other four cell companies. I'm sorry.  
 3 A I have absolutely no idea.  
 4 Q So you didn't even investigate that as an option?  
 5 A We investigated whether they offered service or not.  
 6 You know, we do not have any information as to where  
 7 their POIs are or are not.  
 8 Q The routing option as proposed by Western Wireless in  
 9 5B, which is a chart up on the wall, Western's Exhibit  
 10 5B, while I understand you have not done a full  
 11 investigation of that, do you believe that that's an  
 12 accurate diagram as to essentially how those routing  
 13 groups would take place?  
 14 A Just so there's no misunderstanding, would you mind  
 15 walking me through it.  
 16 Q Yes. My understanding is from every end-office those  
 17 would be routed up to the Brookings host or Clear Lake  
 18 host, which would then be routed -- you'd have to make  
 19 the Qwest tandem or the Qwest trunk two-way and then  
 20 you would route -- you're already getting incoming  
 21 traffic over the Qwest tandem; correct?  
 22 A Incoming?  
 23 Q Yes.  
 24 A Incoming toll from Qwest, yes.  
 25 Q Incoming from Qwest.

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1 A Yeah.

2 Q And then the proposal as you understand Mr. Williams' proposal is to make that a two-way trunk; correct?

3 A Correct.

4 Q Maybe this isn't a fair question for you because I know you haven't talked to Qwest and don't have any background on making a Qwest trunk two-way. So with that diagram -- well, let me ask you this: Are those actually existing facilities in blue on those diagrams that are already in place?

5 A I believe that there are some existing facilities there. However, you know, one of the things that I'm not sure whether it was taken into consideration was the other host offices where there may be existing facilities.

6 So I guess that, you know, I would have to evaluate exactly, you know, where those facilities are and exactly what the calling areas are before I could say that that's an accurate representation.

7 Q All right. Well, then that's all I'll ask you on it.

8 A Okay.

9 Q And you didn't go through and do that kind of investigation as part of your being retained in this situation.

10 A That is correct.

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1 Q For any of your companies?

2 A No.

3 Q I think I asked that question poorly. You didn't do that investigation for any of these companies?

4 A No. We didn't investigate the Qwest option as you described in your -- as Mr. Williams described in his testimony for any of the companies. Simply because, you know, as I mentioned before, you know, there's all kinds of things that we would have to assume that aren't there today.

5 Q Okay. And let's go back to my hypothetical with James Valley. You have the James Valley nonrecurring monthly costs at \$112,404; correct?

6 A Correct.

7 Q And you calculated these recurring costs the exact same way for James Valley as you did for Interstate; correct?

8 A Correct.

9 Q And you calculated these recurring costs this exact same way for all the companies you're testifying on behalf of in these LNP Dockets; correct?

10 A Correct.

11 Q That was calculated by taking the number of points of interconnect and taking them times a set number. I believe the number was \$1,150. Does that ring a bell?

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1 A Which piece are you talking about?

2 Q I'm talking about the monthly recurring cost. You took that times the monthly charge, times the number of points of interconnect to get up to the monthly recurring cost?

3 A Are you talking the transport piece?

4 Q Yes, I am.

5 A On the transport piece I used the total monthly recurring charge from a quote that I got from SDN Communications in my rebuttal testimony listed as Exhibit 2, making the assumption that the POIs would be in Sioux Falls. I don't know whether there's a POI in Sioux Falls or not but just for consistency's sake we needed to take them somewhere.

6 Q Okay. But that's a set monthly charge for each point of interconnect you'd have?

7 A Correct.

8 Q Okay. And what's that number?

9 A For which company?

10 Q It's bearing a number for point of interconnect?

11 A Yes.

12 Q That's a set number by the number of points of interconnects so you'd agree the more points of interconnect that you have the higher that's going to be?

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1 A That is correct.

2 Q Now what's the number for Interstate?

3 A Which one?

4 Q The point of interconnect number per -- the charge per interconnect.

5 A The charge per interconnect is 1,762.47.

6 Q I'm making sure you take that times the number of interconnects they would have for all of these cell companies and that's how you get the monthly recurring cost?

7 A That is correct.

8 Q And the rate changes slightly from company to company?

9 A That is correct.

10 Q Okay. So if there's only -- well, let's just take Interstate. If there's only one point of interconnect what is the monthly recurring cost?

11 A One point of interconnect where? Per calling area, per company?

12 Q No. One point of interconnect between the cell company and Interstate on that chart what is the --

13 A I guess that I'm not following what you're trying to ask me because based on, you know, the way that the rules are set up and especially the reciprocal compensation agreement like, for instance, that you guys have there, you know, would likely be more than

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1 one point of interconnect per company. So I'm not  
 2 sure, you know, saying, yeah, if it's one or -- you  
 3 know, I don't want to position one as being the right  
 4 number.  
 5 **Q** Well, but I'm just asking you one point of  
 6 interconnect, what's the number?  
 7 **A** Yeah. Assuming hypothetically that there's only one  
 8 interconnect, it would be -- per company then for --  
 9 sorry, for -- I must have -- oh, okay. Let's get back  
 10 to the Groton example. If there was --  
 11 **Q** James Valley example you're saying.  
 12 **A** Right.  
 13 **Q** Okay.  
 14 **A** Okay. For James Valley if there was one point of  
 15 interconnect, based on my numbers it would be a monthly  
 16 recurring charge of \$1,729.29 per company, per CMRS  
 17 carrier that's doing that. So you take that times five  
 18 in their case.  
 19 **Q** And what's that come to? You can round it off.  
 20 **A** It's under 10 grand.  
 21 **Q** Yeah. It's like less than 6, isn't it?  
 22 **A** Well, 17 times --  
 23 **Q** 17. I'm sorry. 17 times 5. Okay.  
 24 **A** Yeah. I mean, it's under 20 grand.  
 25 **Q** And that would then be the monthly recurring costs

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1 under that type of scenario?  
 2 **A** Yes. If hypothetically there was only one POI per  
 3 company.  
 4 **Q** You talk in your rebuttal testimony -- I mean, you keep  
 5 talking about the rules, the rules, the rules.  
 6 **A** Uh-huh.  
 7 **Q** Those rules are subject to modification and change,  
 8 aren't they?  
 9 **A** Right. But I can't personally change them to come up  
 10 with something. I have to follow the rules as written.  
 11 **Q** Right. But Interstate, Mr. Heiberger could call  
 12 Western Wireless and take care of the Interconnection  
 13 Agreement, the reciprocal transport issues and  
 14 negotiate that, couldn't he?  
 15 **A** Right. By the same token Western Wireless could have  
 16 called and offered, you know, to negotiate it as well.  
 17 **Q** Are you saying Western Wireless didn't make an overture  
 18 to Interstate about trying to assist with the LNP?  
 19 **A** I don't know if they did or not. All I'm observing is  
 20 that, you know, negotiations are two-way. I mean, if  
 21 there's negotiations it doesn't matter who starts them.  
 22 **Q** Well, Interstate is looking at \$2.5 million the first  
 23 year under your cost analysis. Don't you think that  
 24 would be a motivating factor for Interstate to try to  
 25 figure out a cheaper way to do this?

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1 **A** As I stated earlier, there are a lot of different  
 2 options. The one that --  
 3 **MR. WIECZOREK:** I'm going to object  
 4 and move to strike. I mean, stating earlier and  
 5 going through his options is not the question.  
 6 **MR. SMITH:** Sustained.  
 7 **Q** The question was, your proposal is Interstate, a small  
 8 company by your definition, by Interstate's definition,  
 9 is going to spend \$2.5 million under your proposal.  
 10 Don't you think that would motivate Interstate to  
 11 actually make a call and say to somebody, you know,  
 12 there's cheaper options, let's look at the options?  
 13 **A** In the time frame that we had to evaluate what the  
 14 potential costs would be --  
 15 **MR. WIECZOREK:** Object, move to  
 16 strike again.  
 17 **MR. SMITH:** Overruled.  
 18 **Q** Four months of investigation time according to  
 19 Mr. Heiberger. Do you remember that testimony from  
 20 yesterday?  
 21 **A** Vaguely. I remember him saying some time frame. If  
 22 four is the number that he used, then yes.  
 23 **Q** Do you know how long it took for James Valley and  
 24 Western Wireless to reach an agreement?  
 25 **A** I believe it was a couple of months.

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1 **Q** Would it surprise you if it was only a couple of weeks?  
 2 **A** I guess not if that's what it was.  
 3 **Q** Okay. Did you ever talk to SDN about providing a  
 4 two-way trunk to carry this traffic under the way  
 5 proposed by Western Wireless?  
 6 **A** Yes.  
 7 **Q** You did?  
 8 **A** I talked to SDN to find out if they had any wireless  
 9 point of interconnections on their switch.  
 10 **Q** And they told you it was nonviable or --  
 11 **A** No. We just didn't get any further than that, other  
 12 than, you know, getting some pricing and proposal  
 13 numbers from them. But the, you know, bottom line is  
 14 is that when we were looking at things, you know, the  
 15 first question is, well, let's see if we can figure out  
 16 where some companies may have points of  
 17 interconnections.  
 18 At that time, you know, there weren't any  
 19 and, you know, we assumed that, you know, we would hav  
 20 to look at some other alternatives.  
 21 **Q** Let's go on to something different. You talk about  
 22 type 1 migration issues in your rebuttal testimony. Do  
 23 you recall that?  
 24 **A** Yes.  
 25 **Q** And you claimed there's no issues with type 1 migration

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1 numbers because Western Wireless can go out and get its  
 2 own numbers.  
 3 A I believe that the FCC or actually the Telecom Act  
 4 or -- I might need to read what I have. Can you direct  
 5 me to that?  
 6 Q Why don't I give you a citation on that. Why don't you  
 7 look at your rebuttal testimony.  
 8 A Okay.  
 9 Q At page 11.  
 10 A Okay.  
 11 Q Starting on line 6.  
 12 A Okay.  
 13 Q I was trying to summarize your testimony and I don't  
 14 want to misstate you so let me know, but if you go to  
 15 the bottom of line 19 you state, "Mr. Williams  
 16 incorrectly asserts that wireless-to-wireless  
 17 portability will be hampered in South Dakota due to  
 18 these type 1 connections." Do you see that?  
 19 A Yes.  
 20 Q But isn't it true for any cellular company where there  
 21 are type 1 connections where the number that they've  
 22 got right now, a Western Wireless customer who has a  
 23 phone number right now that's a type 1 connection, that  
 24 they can't be ported to another wireless company?  
 25 A I believe that what I was trying to say here was that

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1 the FCC found that no action was necessary with regard  
 2 to type 1 interconnections because their assertion was  
 3 that all of the wireless carriers are migrating off of  
 4 type 1 connections getting their own NPA NXXs and going  
 5 to type 2, therefore, they weren't required.  
 6 Q I'm not asking what the FCC said. You said it won't be  
 7 hampered in South Dakota. However, if you have a -- if  
 8 a cell customer has a type 1 number right now and he  
 9 wants to port that and the LEC is not providing  
 10 portability, that person cannot port that number; isn't  
 11 that correct?  
 12 A The context of my testimony was that type 1 connections  
 13 should not be considered in the LNP equation because  
 14 the FCC is assuming that -- or, you know, has found  
 15 that most wireless carriers are migrating away from  
 16 those. So if number porting is to be implemented, you  
 17 know, their assumption is the type 2s would be  
 18 converted by the wireless carrier to -- the type 1s  
 19 would be converted by the wireless carrier to type 2s,  
 20 and then, you know, the existing rules regarding LNP  
 21 would fly at that point.  
 22 So that was the context of, you know, what my  
 23 testimony was trying to say.  
 24 Q So you're not representing that there's been  
 25 difficulties with porting type 1 numbers between

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1 wireless companies in South Dakota, are you?  
 2 A I'm saying I know of no time where they've, A, gotten a  
 3 request, or, B, actually tried to do it. I am aware  
 4 the reason -- the background information that the FCC  
 5 has considered when they made such statements was that  
 6 if porting is to occur wireless to wireless on type 1,  
 7 it's not between those two wireless carriers that the  
 8 LEC that's hosting those numbers has to be involved,  
 9 which is why they didn't want to do it.  
 10 Q Well, so you're not aware -- you don't have any  
 11 knowledge of people that have had trouble porting their  
 12 numbers in South Dakota because of this issue?  
 13 A I don't believe there's been any requests so, no, I  
 14 have no knowledge.  
 15 Q Okay. Well, you have no knowledge?  
 16 A Yeah.  
 17 Q All right. So the point you say nobody's been hampered  
 18 in South Dakota from porting your numbers, you really  
 19 don't know?  
 20 A As I stated earlier, the reason I said that was because  
 21 the FCC is assuming everybody's going to type 2,  
 22 therefore type 1s would be eliminated thus porting  
 23 would be hampered is my point.  
 24 Q Okay.  
 25 A I mean, if the carriers choose to keep them, I mean,

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1 that's their issue.  
 2 Q You're not here today testifying on behalf of your  
 3 companies that these companies can come to the  
 4 Commission, pick a very high-cost alternative to  
 5 provide LNP and then use that to establish an undue  
 6 economic burden, are you?  
 7 A I guess I'm not understanding what you're trying to get  
 8 at.  
 9 Q I'm sorry. Maybe the best way to ask this is you're  
 10 just talking about costs and you're only presenting the  
 11 costs in the format you presented them. You're not  
 12 reaching any conclusions that they create an undue  
 13 economic burden or that they're an adverse economic  
 14 impact?  
 15 A I am not -- you know, I am not making those types of  
 16 judgments. That has to do with, I believe,  
 17 Mr. Watkins' testimony. However, you know, I think as  
 18 we've discussed earlier, yeah, transport's a huge issue  
 19 and, you know, that's the area where alternative  
 20 solutions need to be evaluated and need to be addressed  
 21 that benefit not only the, you know, company so it's  
 22 viable for them but also, you know, so we can treat all  
 23 wireless carriers including Western Wireless the same  
 24 way.  
 25 Q Right.

1 A And --  
 2 Q Let me ask a question. You're repeating the stuff that  
 3 we talked about earlier that's in your testimony.  
 4 A Uh-huh.  
 5 Q Essentially what you're saying in your testimony as I  
 6 understand it is there are cheap ways to do this if  
 7 they sat down and could reach an agreement?  
 8 A I believe that we would have to identify what the  
 9 options are and then evaluate each option.  
 10 Q And you have not done that; correct?  
 11 A No. Not in the time frame that we've been allowed for  
 12 this petition.  
 13 MR. WIECZOREK: That's all I have.  
 14 MR. SMITH: Mr. Gerdes.  
 15 CROSS-EXAMINATION  
 16 BY MR. GERDES:  
 17 Q Good afternoon, Mr. DeWitte.  
 18 A Good afternoon.  
 19 Q I'd like to talk with you a little bit about  
 20 wireline-to-wireline LNP, if I could.  
 21 A Okay.  
 22 Q Would you go to page 19 -- no. Page 20 of your direct  
 23 prefiled testimony.  
 24 A Okay. Page 20?  
 25 Q 20.

1 A Okay.  
 2 Q When we're talking about wireline-to-wireline LNP you  
 3 virtually eliminate the transport component of that  
 4 computation, do you not?  
 5 A I believe that's accurate. I can check the exhibit  
 6 quick and let you know that.  
 7 Q My question was, you can virtually eliminate it; is  
 8 that correct?  
 9 A Correct.  
 10 Q Thank you. And as a matter of fact, on page -- or  
 11 excuse me, page 20, line 7 of your testimony you say,  
 12 "Petitioner estimates that these transport costs would  
 13 likely be significantly reduced;" correct? Page 20,  
 14 line 7.  
 15 A Yes.  
 16 Q And if you look at your Exhibit 1A, the only  
 17 transport-related costs that you identify as it relates  
 18 to Midcontinent's LNP would be a \$500 nonrecurring dip  
 19 cost and a \$100 monthly recurring dip cost; correct?  
 20 A Correct.  
 21 Q And in contrast, if you look at your Exhibit 1B, the  
 22 same testimony, we're talking about almost a million  
 23 dollars in costs, 944,000; correct?  
 24 MS. SISAK: Excuse me. You referred  
 25 to 1B of Mr. DeWitte's direct testimony?

1 MR. GERDES: Correct.  
 2 A I guess that the numbers I'm looking at were 577,000  
 3 plus 166, 190.  
 4 Q Right. If you add the two together would you get  
 5 944,000?  
 6 A Approximately, yes.  
 7 Q Okay. I take that back. It's 772. I miss --  
 8 A Okay.  
 9 Q And if you add 772 and 171 you get 944.  
 10 A Right.  
 11 Q Okay. So what we're talking about then is the  
 12 difference between about \$700,000 and \$600; correct?  
 13 MS. SISAK: I'm sorry. Could you  
 14 explain what you're comparing?  
 15 Q Do you understand what I'm asking?  
 16 A I guess that I lost you after -- you know, after we  
 17 added 772 to 171 and got 900, I'm with you there. But  
 18 I'm not with you on the other thing you wanted me to  
 19 look at.  
 20 Q Talking about just transport-related costs.  
 21 A Okay.  
 22 Q The total transport-related costs for LNP for wireline  
 23 to wireline would be \$600; correct?  
 24 A That's the estimate, yes.  
 25 Q And if you're talking about intermodal local number

1 portability, we're talking about something on the high  
 2 side of \$700,000, that's 577 plus 166; correct?  
 3 A Correct.  
 4 Q Okay. So that is a significant reduction, is it not?  
 5 A That is.  
 6 Q Thank you.  
 7 A I guess the only other thing I'd point out --  
 8 Q I haven't asked you a question.  
 9 A Okay.  
 10 Q Thank you. Now later on in that same paragraph you  
 11 talk about in intramodal LNP cases that you're familiar  
 12 with the carriers have entered into an Interconnection  
 13 Agreement. Do you see that?  
 14 A Hold on a second.  
 15 Q Okay. I thought you had it. Excuse me.  
 16 A Back on page 20?  
 17 Q We are.  
 18 A Okay.  
 19 Q Line 11.  
 20 A Okay.  
 21 Q Excuse me. Line 10.  
 22 A Okay. And the question?  
 23 Q The question was, in intramodal LNP cases with which  
 24 you're familiar carriers have entered into an  
 25 Interconnection Agreement, that's what you said?

1 A Correct.  
 2 Q That's what we have here, there's an Interconnection  
 3 Agreement between Midcontinent and ITC; correct?  
 4 A Correct.  
 5 Q Okay. And then it talks about the Interconnection  
 6 Agreement -- your testimony talks about the  
 7 Interconnection Agreement addressing methods and  
 8 compensation. Have you looked at the Interconnection  
 9 Agreement between ITC and Midcontinent?  
 10 A No, I have not.  
 11 Q Okay. So you don't know whether it does or doesn't?  
 12 A No. That's why I said the ones that I'm familiar with.  
 13 Q Okay. And then in the next sentence you talk about  
 14 Interconnection Agreements including "compensation for  
 15 traffic volumes typically in the form of reciprocal  
 16 compensation." Do you see that?  
 17 A Yes.  
 18 Q And are you aware whether or not the Interconnection  
 19 Agreement between Midcontinent and ITC has that?  
 20 A I am not aware of that.  
 21 Q And if it did that would be a good thing, I imagine?  
 22 A Yes.  
 23 Q And then you talk about the testing for each ported  
 24 number would be reduced; correct?  
 25 A Correct.

1 Q Okay. And if we go over to your exhibit, we're talking  
 2 about -- compare the exhibit for Midcontinent with the  
 3 Exhibit 1B for intermodal local number portability.  
 4 A Okay.  
 5 Q It appears to me that you're using a higher figure for  
 6 Midcontinent than you are for intermodal portability.  
 7 A Which figure in particular?  
 8 Q For testing. We were just talking about testing.  
 9 Under technical administrative costs, testing.  
 10 A Right. Are we talking about the recurring?  
 11 Q That's the only figure I see.  
 12 A Okay. We may have a rounding error there. They are  
 13 intended to be the same because it's the same hourly  
 14 rates that were used to back them up.  
 15 Q Well, your testimony says that it would be less for  
 16 Midcontinent.  
 17 A What I was talking about was the -- let's go back and  
 18 look at it quick. Okay.  
 19 (Witness examines document)  
 20 Q Was that perhaps a mistake?  
 21 A I guess that I'll have to look into that, but my  
 22 assumption is this -- or my methodology was this. You  
 23 know, I did say likely. I didn't say would be, and I  
 24 wanted to make sure that I maintained some consistency  
 25 from exhibit to exhibit.

1 So my intention was to leave those numbers  
 2 the same.  
 3 Q Well, then why did you say they would be less in your  
 4 testimony?  
 5 A I said they likely could be less. I didn't say they  
 6 would be less.  
 7 Q No. I think you said would likely be reduced. That's  
 8 what I'm reading.  
 9 A Right. Would likely be reduced.  
 10 Q You didn't say could. You said would; right?  
 11 A My --  
 12 Q Mr. DeWitte, my question is, did you say could or would  
 13 in your testimony?  
 14 A I said likely. Likely doesn't mean it would be.  
 15 Q Well, excuse me. Look at the last word on line 15.  
 16 A I see that.  
 17 Q What is it?  
 18 A It's would.  
 19 Q Thank you. I'd like to call your attention to Exhibit  
 20 1A, and if I'm looking at that exhibit correctly, you  
 21 are amortizing -- or I should say spreading the total  
 22 estimated costs over 1,660 access lines; is that  
 23 correct?  
 24 A That's correct.  
 25 Q And that's the number of access lines in Webster?

1 A I believe that's correct. Let me check quick. I  
 2 believe that was an exhibit in the original petition.  
 3 (Witness examines documents)  
 4 A I believe that is the correct number.  
 5 Q Okay. And then if you look at your Exhibit 1B, you're  
 6 spreading the estimated costs to implement intermodal  
 7 LNP over 14,529 lines; is that correct?  
 8 A That's correct.  
 9 Q And I assume that would be over the entirety of ITC's  
 10 lines.  
 11 A No. That is not correct. That's over the entirety of  
 12 ITC's South Dakota lines.  
 13 Q Yeah. Okay. Excuse me. The entirety of ITC's  
 14 South Dakota lines.  
 15 A Okay.  
 16 Q Correct?  
 17 A Correct.  
 18 Q Okay. Point of fact, you could spread that cost in the  
 19 Midcontinent exhibit over 14,529 and that would be the  
 20 more accurate allocation of those costs, would it not?  
 21 A That's not -- that's not accurate. My understanding of  
 22 the way that those types of costs need to be allocated  
 23 is that if there is an exchange that has LNP  
 24 implemented for wireline-to-wireline LNP porting, you  
 25 spread the costs of LNP across those subscriber lines

1 in that exchange or group of exchanges, not the entire  
 2 service area.  
 3 **Q** But it would be correct, would it not, that if you  
 4 implemented LNP, intermodal LNP, these costs would go  
 5 away and subsumed in the costs of doing the intermodal  
 6 LNP, wouldn't that be correct?  
 7 **A** Could you say that again?  
 8 **Q** I'm saying that if intermodal LNP was implemented.  
 9 **A** Intermodal?  
 10 **Q** Intermodal were implemented, these costs that you have  
 11 on Exhibit 1A would be subsumed in that process, would  
 12 it not?  
 13 **A** That's correct.  
 14 **Q** Then you would have zero on these lines, would you not?  
 15 **A** Correct. But --  
 16 **Q** So would it not be more accurate since we can assume  
 17 there may very well be calls for LNP in other exchanges  
 18 to spread those costs over the entirety of Interstate's  
 19 South Dakota lines, rather than just the Webster  
 20 exchange?  
 21 **A** That would not be accurate because if you look at the  
 22 way these exhibits were put together and my testimony,  
 23 I specifically pointed out if LNP was required only for  
 24 wireline-to-wireline porting those costs would be  
 25 represented by the numbers that are in Exhibit 1A. If

1 intermodal, meaning wireline to wireless, was  
 2 implemented then, you know, that exhibit covers those  
 3 costs. And I do point out in my testimony that if both  
 4 are required, then, yes, there is some overlap of  
 5 costs.  
 6 But to the point if LNP is only required from  
 7 wireline to wireline, you can only spread those costs  
 8 where that competition is going on in those exchanges.  
 9 You can't spread it across the entire subscriber base.  
 10 **Q** Excuse me. We're not trying this case in a vacuum, are  
 11 we?  
 12 **A** No.  
 13 **Q** And it is true, is it not, that these figures on  
 14 Exhibit 1A assume that we would not be doing  
 15 wireline-to-wireless LNP; correct?  
 16 **A** That is correct.  
 17 **Q** Okay. Thank you. And it is also true that the overall  
 18 cost of wireline-to-wireline local number portability  
 19 is substantially less, even taken in a comparative  
 20 sense like you've done here, than the wireless LNP;  
 21 correct?  
 22 **A** I don't know if that's an accurate representation.  
 23 What --  
 24 **Q** Yes or no?  
 25 **A** No then.

1 **Q** Okay. What is your definition of substantial?  
 2 **A** My point is that --  
 3 **Q** What is your definition of substantial?  
 4 **A** More than.  
 5 **Q** Okay.  
 6 **A** You know --  
 7 **Q** So would you say that 7 and a half percent as big as  
 8 the other figure would be a substantial difference?  
 9 **A** 7 and a half percent of what?  
 10 **Q** Let's say that the costs of implementing  
 11 wireline-to-wireline LNP were 7 and a half percent of  
 12 the costs of implementing intermodal LNP. Would that  
 13 be a substantial difference?  
 14 **A** Is this a hypothetical?  
 15 **Q** Yes.  
 16 **A** Yes. I would say that's a substantial difference.  
 17 **Q** If you take these two exhibits and add them together, I  
 18 get on Exhibit 1A \$71,596 total costs of implementing  
 19 intramodal LNP, okay? If you add the same figures  
 20 together on intermodal LNP I get \$944,729. Would you  
 21 trust me if I did the math and found 7 and a half  
 22 percent to be the portion of the larger figure that the  
 23 smaller figure is?  
 24 **A** I would trust your math. However, I would have to, you  
 25 know, provide some explanation as to why it's that

1 large.  
 2 **Q** Well, and I'll allow your lawyer to do that with you.  
 3 MR. GERDES: That's all the  
 4 questions I have.  
 5 MR. SMITH: Ms. Wiest.  
 6 CROSS-EXAMINATION  
 7 BY MS. WIEST:  
 8 **Q** Mr. DeWitte, could you please go to your Exhibit 3A to  
 9 your rebuttal. Looking at Interstate and going back to  
 10 the transport-related costs and the \$576,000, my  
 11 understanding is that number was arrived at taking the  
 12 number of exchanges times 6 CMRS carriers times 4,000  
 13 per line; is that correct?  
 14 **A** For Interstate?  
 15 **Q** Yeah.  
 16 **A** Correct.  
 17 **Q** Does ITC have four direct connections with wireless  
 18 carriers?  
 19 **A** I believe they do.  
 20 **Q** Should those costs for those connections be subtracted  
 21 from that number?  
 22 **A** Yes. It should be reduced by four connections.  
 23 **Q** So that would be \$16,000?  
 24 **A** Yes.  
 25 **Q** And in some cases you used \$4,000 for a direct

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1 connection and in other cases you used 5,000. Could  
 2 you tell me the difference between those two?  
 3 **A** Yes. If you take a look at the actual implementation  
 4 and configuration the existing switches have, the way  
 5 that I arrived at that is for every circuit pack that  
 6 you add into a switch you have to have a shelf to plug  
 7 it into, you have to have a bay to plug the shelf into,  
 8 and, of course, you have the cost of the circuit pack.  
 9 So what I did was I took a look at their  
 10 initial configuration and then estimated the number of  
 11 bays, shelves, and networks and all of that kind of  
 12 stuff that you would need to add this quantity of DS-1s  
 13 and then rounded it to the appropriate number. In some  
 14 cases it was 4,000. In others it was 5.  
 15 **Q** Okay. I believe Mr. Heiberger stated one of the CMRS  
 16 carriers that you calculated in your RCC does not serve  
 17 all of ITC exchanges. Should those also be subtracted?  
 18 **A** The assumption that I made was, you know, if a carrier  
 19 was serving there, you know, we made some assumptions  
 20 on where they may expand service to, but, you know, if  
 21 we want to take a look at our RCC, for instance, and if  
 22 they're not going to serve, you know, a particular  
 23 service area or particular exchanges, yes, we could  
 24 reduce those for that particular carrier.  
 25 **Q** How did you determine some carriers would be serving

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1 within the next five years and some would not be? I  
 2 think you used all six in the ITC example but then when  
 3 we get to Brookings you didn't use all 11.  
 4 **A** All 11 potential you mean?  
 5 **Q** Yes.  
 6 **A** What we did was, you know, we sat down and we talked  
 7 about, you know, with each client, you know, which  
 8 carriers are there today, which ones, you know, they  
 9 have heard of that are evaluating offering service, and  
 10 made our assumptions based on those.  
 11 And in particular if you take a look at, for  
 12 instance, Nextel, you know, there's a lot of areas  
 13 where Nextel is not offering service today but yet  
 14 they've made plans and announced plans to begin  
 15 offering services throughout South Dakota within the  
 16 next couple of years. So that's why we included Nextel  
 17 on a lot of those.  
 18 **Q** But then if at any time LNP is actually implemented and  
 19 there would be only four carriers, then you wouldn't be  
 20 allowed to include those costs, right, in any --  
 21 **A** I don't -- I wasn't, you know, positioning what would  
 22 actually go into the end-user cost with my numbers. I  
 23 was trying to get my hands around what the potential  
 24 total implementation cost could be.  
 25 **Q** And then I think this is true for 1B and for 3A. There

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1 was a discussion with Mr. Wiczorek about directory  
 2 number pooling. Do you recall that?  
 3 **A** Yes.  
 4 **Q** And I believe that would be under additional software  
 5 features; is that correct?  
 6 **A** Correct.  
 7 **Q** And then when you go across there, how come that was  
 8 put in place for some of the carriers and not for all  
 9 of them?  
 10 **A** For some carriers we talked about whether we should  
 11 include that or not. We looked at the likelihood of  
 12 that being implemented in some areas and came to the  
 13 conclusion that, you know, it may not ever be a  
 14 requirement. And that was the case with West River and  
 15 Swiftel.  
 16 **Q** And a similar question for additional vendor fees. I  
 17 believe that was RUS paperwork that was only included  
 18 for three of them, I believe.  
 19 **A** Right. That goes back to how they are looking at  
 20 potentially financing it and whether they're on a, you  
 21 know, vendor upgrade program that waives some of those  
 22 costs.  
 23 **Q** Okay. And then on page 11 of your direct testimony.  
 24 **A** For Interstate?  
 25 **Q** Yes. For Interstate. Going to line 3.

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1 **A** Okay.  
 2 **Q** I guess starting with 2, the recurring administrative  
 3 costs are based on hour per port, loaded administrative  
 4 costs at \$41 per hour. I believe for ITC you estimated  
 5 two ports, and then the number that you came up with  
 6 for the recurring costs on administration is 200.  
 7 How did you come up with 200 using \$41 an  
 8 hour and two ports?  
 9 **A** Hold that thought. Let me look.  
 10 (Witness examines documents)  
 11 **A** For which line item again, please?  
 12 **Q** This is for administrative costs recurring.  
 13 **A** I believe that I misstated the way that I actually did  
 14 the calculation in my direct testimony. The  
 15 calculation that I used in the exhibits was 2 and a  
 16 half hours and \$41.  
 17 **Q** Okay. And go to your direct, page 10, line 24. You  
 18 mentioned a cost of \$5,000 for administrative costs.  
 19 If you go to your exhibit, you have \$8,000. Which is  
 20 correct?  
 21 **A** That would be the nonrecurring?  
 22 **Q** Yes. Nonrecurring administrative.  
 23 **A** Could you repeat your question?  
 24 **Q** Yes. On page 10, line 24 you state the cost is assumed  
 25 to be 5,000. And the way I read it you have \$8,000.



1 A Right.  
 2 Q On the exhibit.  
 3 A And that actually was a typographical error that I had  
 4 in my notes here that I needed to correct when we  
 5 talked about it. But 5,000 is the correct number.  
 6 Q So the 8,000 on Exhibit 3A needs to be changed to  
 7 5,000?  
 8 A Correct.  
 9 Q You can just rerun it that way too; right?  
 10 A Okay.  
 11 Q And then going to page 19 on your direct testimony,  
 12 please.  
 13 A Page 19.  
 14 Q I'm sorry. Page 18 when you're talking about automated  
 15 SOA.  
 16 A Yes.  
 17 Q I believe with an automated SOA you would not assume  
 18 that there would be any increase if the porting  
 19 interval is shortened; is that correct?  
 20 A There would be no potential increase in, you know, the  
 21 licensing fees and that sort of stuff, but there are  
 22 possibilities that some of the recurring costs may go  
 23 up and that -- in my testimony I talked about if  
 24 those -- if the porting interval was reduced to the  
 25 point where we're talking hours and it turned out to be

1 center help desk?  
 2 A Yes.  
 3 Q Could you give me your thoughts? Is that an option?  
 4 A It's an option in what context?  
 5 Q Is it an option for your companies?  
 6 A In what context?  
 7 Q Instead of an automated SOA process.  
 8 A I guess I don't know how to answer that other than to  
 9 say it's definitely an option worthy of consideration  
 10 if the porting interval never changes and you have four  
 11 days and you can operate using faxes and some other  
 12 manual processes. As the porting interval becomes  
 13 shorter then, no, it's not an option and, you know,  
 14 everybody would have to use an automated system anyway.  
 15 Q Do you know how much shorter the porting interval would  
 16 have to become?  
 17 A I don't know, no.  
 18 Q Would two days mean that you would have to go to an  
 19 automated system?  
 20 A I don't know.  
 21 Q Do you know if the FCC would lessen the interval --  
 22 let's say that you put in costs for a manual SOA  
 23 system, which is cheaper than automated; is that  
 24 correct?  
 25 A Yes.

1 something that required an expedited request, you know,  
 2 night service, weekend service, or somebody working on  
 3 holidays or something along that line, obviously labor  
 4 costs are more on those types of days and the  
 5 applicable labor rate would apply.  
 6 But in terms of the, you know, service order  
 7 administration system itself, no, we're not  
 8 anticipating additional costs there.  
 9 Q So keeping on that same issue of SOA, could you go to  
 10 your rebuttal, page 6. Page 6, line 10 you state,  
 11 "Manual SOA processes will not be sufficient if the  
 12 CMRS carriers get the FCC to reduce the porting  
 13 interval from 4 days to 2.5 hours?"  
 14 A Uh-huh.  
 15 Q I assume the 2.5 hours is the current  
 16 wireless-to-wireless porting interval; is that correct?  
 17 A No. That has been a target that the FCC has put out  
 18 there. I don't believe that it's down to 2.5 hours.  
 19 Q Not for wireless to wireless it isn't? Okay.  
 20 A I thought it was two days today. Is that true?  
 21 Q But you state that it might go down to 2.5 hours as the  
 22 target?  
 23 A That's the target that I have read about, yes.  
 24 Q And did you read Mr. Williams' testimony when he  
 25 mentions the use of a number portability administration

1 Q And that would be based on the current four-day porting  
 2 interval?  
 3 A Uh-huh.  
 4 Q And let's say the FCC subsequently determines to lessen  
 5 that interval. Do you know if carriers could petition  
 6 to allow the increased costs based on a change in FCC  
 7 rules?  
 8 A I don't know. My understanding is that once you create  
 9 an end-user charge that's what it is, and I don't know  
 10 what the rules are for any changes myself. We put it  
 11 in up-front.  
 12 Q Not even for reductions, you're not aware?  
 13 A I'm not aware.  
 14 Q On your NTSO connection cost estimates, I believe that  
 15 you took them out. Why is that on Exhibit 3A?  
 16 A In my -- I believe it's in my rebuttal testimony -- the  
 17 short answer to that is that it really depends on how  
 18 the transporting is actually going to occur. And those  
 19 charges would only occur if there was some sort of  
 20 transiting option that we don't know whether it would  
 21 exist or not. So what we made the assumption of with  
 22 the revised 3A testimony was that we're going to have  
 23 direct connections and we're not going to have any  
 24 transiting or any other default dips and so we  
 25 eliminated those costs.

1 Q And then for when you talk about number of access  
2 lines, did you include lifeline subscribers in that  
3 number?  
4 A Which number?  
5 Q In the number of access lines, people who are on  
6 lifeline.  
7 A Which?  
8 Q For ITC. I'm sorry.  
9 A The access lines that were on my exhibits do include  
10 lifeline.  
11 Q Okay. And if those numbers were to be used for  
12 surcharge, they wouldn't be included then, but your  
13 testimony is it's not to be used for a surcharge;  
14 right?  
15 A Yeah. I wasn't positioning my numbers as surcharge.  
16 My understanding is that you take lifeline lines off of  
17 that and then use the remaining lines.  
18 Q And then are you familiar with Western Wireless's  
19 response to the Petitioner's Interrogatories? I'll  
20 just show it to you in case you don't have it. It is  
21 supplemental discovery requests dated June 14.  
22 I'm on page 8, question 14. What is listed  
23 there is Western Wireless estimates of the cost of  
24 routing traffic, and they go through a list of how they  
25 came up with their cost. Are there any costs on there

1 that you would dispute?  
2 MS. SISA: I'm sorry. For  
3 clarification, your question is if he would dispute  
4 the costs or if he would dispute the methodology?  
5 MS. WIEST: My question is costs,  
6 does he dispute any of the costs.  
7 A I guess I have no basis to dispute the \$400  
8 nonrecurring charge for the Qwest tandem other than I  
9 guess I would have to ask whether that number was  
10 requested from Qwest and Qwest actually gave it or if  
11 somebody estimated that or what. Without knowing what  
12 kind of switch Qwest has or what release level their  
13 cards are or anything like that, I just have absolutely  
14 no idea whether that number is high, low, or correct.  
15 The Qwest toll transit rate, you know, I --  
16 you know, with six digits of accuracy listed there I'm  
17 guessing that that's probably out of either an  
18 agreement that exists between Western Wireless and  
19 Qwest or, you know, something along that line. So I  
20 have no idea whether that's right or not.  
21 But the other assumptions in terms of the  
22 number of local calls originated and things like that  
23 appear to be within the same parameters that I used for  
24 my estimates.  
25 Q Okay. Thank you. Could you go to page 12 of your

1 rebuttal? Line 1 you state, "Further the use of Qwest  
2 as an aggregator has not been acceptable to the  
3 Petitioners for a number of reasons, such as the  
4 ongoing issues with Qwest and phantom traffic and other  
5 service issues."  
6 Could you explain the phantom traffic issue?  
7 A Yes. Phantom traffic is a phenomenon where traffic is  
8 terminated down the one-way trunk group that we've been  
9 talking about and on most of the switching systems  
10 you're actually able to measure the number of minutes  
11 that terminate on that trunk group.  
12 Let's just say for the purposes of easy math  
13 that we terminate a million minutes a month on that  
14 trunk group. Then we get a CABS bill with CABS  
15 information and it is only reflecting 800,000 minutes.  
16 And so there's a disagreement on, you know, what Qwest  
17 is saying that they sent down the trunk group. They're  
18 saying, hey, here's your CABS bill, here's 800 minutes  
19 and this is where it came from, and it's like well, we  
20 measured 200,000 minutes, well, what happened to the  
21 200,000 minutes that aren't on your CABS? And the  
22 answer to that is, well, we have no idea, hence the  
23 term phantom traffic.  
24 The reason that it's phantom is it gets into  
25 a, you know, quite lengthy discussion about things like

1 information that would be provided by carriers that  
2 would use Qwest as a terminating carrier -- or  
3 transiting carrier to terminate that traffic and  
4 they're not delivering things like the carrier  
5 identification code or the jurisdictional information  
6 parameter, JIP, and things like that so thus there's no  
7 way of billing a CABS record back to a particular -- a  
8 particular carrier.  
9 So what the fear is is that since the phantom  
10 traffic issue has gone unresolved for years, you know,  
11 one of the ways that it's being addressed is actually  
12 SB-144 that was signed earlier this year. You know,  
13 that will help at least put some requirements on what  
14 kind of industry standard signaling information has to  
15 be provided.  
16 But the bottom line is, you know, the ongoing  
17 dispute on what is actually being terminated and what's  
18 actually being billed, you know, is a huge issue and,  
19 you know, things like voice-over IP and, you know,  
20 other unidentified carriers will probably make that  
21 problem worse. And so what, you know, the issue there  
22 is that -- and this is pretty common with every ILEC  
23 that is in the state of South Dakota today. They all  
24 have these issues. They've all, you know, been trying  
25 to work with Qwest for literally years to try to solve

1 some of these issues and other issues on top of that.  
 2 And the bottom line is ILECs typically don't view Qwest  
 3 as their carrier of choice for things like this.  
 4 **Q** What other service issues are there?  
 5 **A** Without knowing, you know -- I guess that, you know, I  
 6 don't have other examples for you. I know that I've  
 7 talked to several of our clients about the phantom  
 8 traffic issue. But there's been other issues with, you  
 9 know, outages or, you know, service issues because, you  
 10 know, their trunks go down or those types of service  
 11 issues. And it's simply because, you know, a lot of  
 12 times their circuits aren't on a SONET-protected ring  
 13 and things along that line.  
 14 **Q** Going to Exhibit 3A, what exact inputs did you use by  
 15 Mr. Williams that changed this exhibit?  
 16 **A** Do you have a color copy?  
 17 **Q** Yes.  
 18 **A** Okay. Everything that I left that Mr. Williams had  
 19 changed is in green. So he had changed stuff from the  
 20 original petitions that I had submitted. And so  
 21 everything that he -- you know, that he changed that  
 22 either, you know, they had some other calculation which  
 23 was close enough or whatever, I just left it as green  
 24 because, okay, yeah, it's within the range of  
 25 reasonableness. And that's why I also -- Mr. Williams

1 actually suggested removing, you know, those dip  
 2 charges that we discussed earlier.  
 3 **Q** Uh-huh.  
 4 **A** So I left those. And then everything that I felt like  
 5 Mr. Williams was not correct in his assumptions for  
 6 either removing or reducing a number, I filled the  
 7 number back in and turned it yellow.  
 8 **Q** And then Exhibit 3C represents all CMRS -- how does  
 9 that differ from 3A?  
 10 **A** Yeah. The idea with Exhibits 3A, 3B, and 3C is this:  
 11 If you refer to the ports-per-year line, which is -- I  
 12 believe it's the last line on 3A, those are the number  
 13 of ports per year that we projected with our original  
 14 petition.  
 15 So the calculation that I used for that was  
 16 if we take the total number of access lines, which is  
 17 up a little ways. It says access lines total, 2003.  
 18 We subtract the number of annual ports, that gives us  
 19 the -- you know, that gives us the number of lines that  
 20 we would actually have left to spread costs against.  
 21 And what I was trying to show was that in Western  
 22 Wireless's testimony the number of ports that they were  
 23 projecting for -- you know, for all of these areas  
 24 varied and, in fact, they were greater than the ones we  
 25 submitted with our petition.

1 So 3B is a representation of how the  
 2 recurring costs would change based on Western  
 3 Wireless's porting quantities that were provided by  
 4 Ron Williams.  
 5 Then we made the assumption, okay, that's  
 6 what happens if Western Wireless is correct with the  
 7 number of ports that they submitted in their testimony.  
 8 And so if we take that a step further and we look at  
 9 the number of total ports there would be if all  
 10 carriers had the same success rate that Western  
 11 Wireless did, those numbers are represented as  
 12 Exhibit 3C.  
 13 **Q** And whose number of estimates of ports do you consider  
 14 to be more accurate, your original or Mr. Williams'?  
 15 **A** I consider ours to be more accurate judging by the fact  
 16 that, you know, in talking to managers and, you know,  
 17 other -- you know, other people in the industry there  
 18 does not seem to be a huge demand for -- you know, for  
 19 wireless to wireline -- I'm sorry.  
 20 Wireline-to-wireless ports.  
 21 And I guess that information is backed up by  
 22 a recent study that came out from OPASCO that surveyed  
 23 several other member companies who were inside the top  
 24 100 MSAs and they had a whole list of companies and it  
 25 doesn't really matter who they were but the important

1 thing is there if you look at the number of ports  
 2 they've had since they were forced to implement it back  
 3 in November, it's very small numbers. It's usually all  
 4 zeroes, maybe one or two.  
 5 So the numbers that we were projecting I  
 6 think are more accurate based on the information that's  
 7 coming in from the OPASCO from their member companies  
 8 in other parts of Midwest.  
 9 MS. WIEST: Thank you. I have  
 10 nothing further.  
 11 MR. SMITH: Do the Commissioners  
 12 have questions at this point before we go to  
 13 redirect so you'll know what you're up against?  
 14 VICE CHAIR HANSON: You don't want  
 15 to go redirect first?  
 16 MR. SMITH: I think maybe they'd  
 17 like a shot at rehabilitation depending on what you  
 18 ask, Gary.  
 19 VICE CHAIR HANSON: I thought you  
 20 were going to say they'd like a shot at the  
 21 Commissioners.  
 22 MR. SMITH: Depends on how you vote.  
 23 CHAIRMAN SAHR: Depends on what you  
 24 ask.  
 25 VICE CHAIR HANSON: I'll ask a few

1 questions, if I may. Mr. DeWitte, well, first of  
 2 all, just a general question. I don't believe any  
 3 of the Commissioners have a colored copy of the 3A  
 4 that has been discussed. Do you have color copies?  
 5 So when you start talking about greens and yellows  
 6 and such, except for the markings that we've put on  
 7 it, we don't have color copies.  
 8 (Mr. Smith hands Commissioner copy)  
 9 VICE CHAIR HANSON: Thank you.  
 10 Amazing what you can get when you're Commissioner.  
 11 I just noticed that these show confidential on them  
 12 and we're discussing them. How confidential are  
 13 these papers since we've been discussing them?  
 14 THE WITNESS: The information that I  
 15 filled in is all information that was -- you know,  
 16 that we had -- I had either gotten or included in  
 17 my rebuttal or whatever. I didn't bother removing  
 18 the confidentiality stamp from Mr. Williams'  
 19 numbers so if Mr. Williams' numbers are  
 20 confidential --  
 21 MR. WIECZOREK: I can speak to that.  
 22 I believe when I presented the document with the  
 23 testimony it was marked confidential only because  
 24 it included the Petitioner's original numbers and  
 25 those were provided as a confidential exhibit to us

1 originally so I continued it so there would be no  
 2 confusion we'd be disclosing something publicly.  
 3 So if there's no objection, we have none either.  
 4 VICE CHAIR HANSON: At this juncture  
 5 then these papers are not confidential, we can --  
 6 MR. WIECZOREK: If the Petitioners  
 7 don't want to keep the numbers confidential -- it's  
 8 their numbers.  
 9 VICE CHAIR HANSON: I know. But at  
 10 the same time if someone was doing an interview  
 11 outside afterwards and starts using some numbers, I  
 12 don't --  
 13 THE WITNESS: The only issue that I  
 14 have is that on Exhibit 3A, 3B, and 3C I -- could I  
 15 just have like 30 seconds to ask on the SOA costs  
 16 where I still have that range in there, is the  
 17 range okay?  
 18 MS. SISAK: May I confer with my  
 19 client on this limited question or my witness?  
 20 MR. SMITH: Yes. We're going to  
 21 take a recess for a couple of minutes. Let's say 5  
 22 minutes.  
 23 (A short recess is taken)  
 24 MR. SMITH: We're back on the  
 25 record, and Commissioner Hanson, you have the

1 floor.  
 2 VICE CHAIR HANSON: Thank you.  
 3 Mr. DeWitte.  
 4 THE WITNESS: Yes.  
 5 VICE CHAIR HANSON: I appreciate  
 6 very much all of the information that you've  
 7 provided through your testimony and through the  
 8 written testimony as well. I'm glad we didn't have  
 9 to try to ferret out the exhibits through some type  
 10 of a written testimony.  
 11 The information on 3A on your rebuttal  
 12 testimony, something I'd like to touch on a little  
 13 bit, but first of all, you had said that there were  
 14 an infinite number, and I'll accept that you may  
 15 have exaggerated when you said there were an  
 16 infinite number of options available for routing  
 17 and you examined those options which could be done  
 18 now and I wasn't quite certain when you said after  
 19 that something about hundreds of others which  
 20 require negotiations and changes of some sort.  
 21 Were there a number of other options that you  
 22 explored? It sounded as if you did. Obviously if  
 23 you subtract hundreds from infinite number you have  
 24 quite a few left over.  
 25 THE WITNESS: We talked about

1 several different potential network architectures,  
 2 and what we came to is we have a short amount of  
 3 time in which to put together some costs. We don't  
 4 have any time to negotiate with any carriers to try  
 5 to implement one thing or the other hoping that the  
 6 numbers are right.  
 7 So rather than, you know, spend time on things  
 8 that may never come to fruition, let's put together  
 9 some cost estimates for things that we absolutely  
 10 know that we can do today with the existing  
 11 agreements that are in place today and that don't  
 12 require changes of, you know, backing support  
 13 systems and things along that line with rating and  
 14 routing and so forth.  
 15 So in essence what we did is took the existing  
 16 agreements, we took, you know, what could happen in  
 17 the exchanges, you know, made the assumption that  
 18 we had a POI in each exchange for each wireless  
 19 carrier, et cetera, et cetera, and based our costs  
 20 on those.  
 21 VICE CHAIR HANSON: Okay.  
 22 THE WITNESS: And I think the real  
 23 answer to your question is, you know, I think as  
 24 evidenced by what happened earlier today with James  
 25 Valley, you know, once some of the issues that

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1 we've addressed in our testimony have been, you  
2 know, addressed and agreed to, yeah, then there are  
3 other solutions that pop up.

4 And, of course, in that particular case, you  
5 know, the transport went away for Western Wireless  
6 because of that agreement. But yet, you know, they  
7 are fulfilling having a POI in their -- you know,  
8 in James Valley's exchange as, you know, they  
9 needed to do so pursuant to their reciprocal comp  
10 agreement.

11 VICE CHAIR HANSON: So in the real  
12 world if you were the Jerry Heiberger managing  
13 facilities, you would explore other avenues?

14 THE WITNESS: Yes. And the thing  
15 that would need to be explored when you're  
16 evaluating those is not on an individual wireless  
17 carrier by wireless carrier basis but a solution  
18 that would solve all of these issues for all of the  
19 carriers, not just one carrier.

20 Because what may work well for one carrier  
21 doesn't necessarily work for the others. And  
22 that's part of the valuation that there, you know,  
23 frankly wasn't time to evaluate or negotiate.

24 VICE CHAIR HANSON: Do you think the  
25 James Valley solution would be precedent that could

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1 be worked in with the others?

2 THE WITNESS: I think that the James  
3 Valley solution while, you know, it obviously was  
4 good for James Valley, you know, merits evaluation  
5 by other carriers.

6 There may be some issues on, you know, where  
7 the POIs are, some common POIs but I think the  
8 important precedence that the James Valley petition  
9 gives us is that it takes -- it puts the  
10 responsibility for transport back on the wireless  
11 carrier rather than the Petitioners. It, you know,  
12 establishes a POI in the local serving area that,  
13 you know, the wireless carrier is interested in  
14 serving. So in other words, we don't have to  
15 transport local traffic outside of our service  
16 area.

17 Thirdly, you know, that single DS-1 can be  
18 split up into DSOs to serve multiple serving areas  
19 within that company exchange, thereby, you know,  
20 respecting the requirements that are actually in  
21 the reciprocal comp agreement today.

22 Now, you know, prior to putting all of these  
23 proposals together, none of those things were  
24 available, hence, you know, that wasn't an option  
25 that was explored for all the Petitioners.

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1 VICE CHAIR HANSON: Thank you. Is  
2 it realistic for us to believe then looking at the  
3 \$4,000 option and the \$576,000 option that not  
4 withstanding the recurring costs, et cetera, is it  
5 realistic for us to believe that there are  
6 considerably less expensive ways of skinning this  
7 cat than the methodology that was shown on 3A?

8 THE WITNESS: I believe there are  
9 other options that could be explored. However, you  
10 know, the option that we presented is valid and it  
11 will work absent any other negotiations. But I  
12 think, to your point, I don't think anybody's  
13 arguing that those are large numbers.

14 And, you know, one of the things that  
15 definitely should happen is to explore other  
16 alternatives that are palatable to everybody, and  
17 perhaps a working group or something like that is  
18 the way to go on that. However, you know, the part  
19 that needs to be there is that, you know, it needs  
20 to address not only, you know, the requirements,  
21 you know, that Western Wireless has brought up in  
22 this proceeding but, you know, also all future  
23 comers.

24 And that's why a working group may be one of  
25 the ways to accomplish that end.

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1 VICE CHAIR HANSON: So you'd conduct  
2 further research and bring folks together to try  
3 and come up with a common method by which to  
4 resolve this.

5 THE WITNESS: Right.

6 VICE CHAIR HANSON: But you would  
7 not use the method apparently that you've outlined  
8 here on 3A?

9 THE WITNESS: No. Admittedly the  
10 method that we used in here was based on the  
11 fact --

12 VICE CHAIR HANSON: I understand  
13 from your previous testimony.

14 THE WITNESS: Yeah. But I can  
15 assure you that this method will, in fact, work and  
16 everything will write and route correctly.

17 CHAIRMAN SAHR: You know they have  
18 the page 2 up there.

19 THE WITNESS: I thought they had the  
20 other one.

21 CHAIRMAN SAHR: You said this method  
22 and you pointed at that. I think you probably  
23 meant this method.

24 THE WITNESS: Yeah. They shouldn't  
25 change things on me when I'm not there.

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1 VICE CHAIR HANSON: Well, again, I  
 2 very much appreciate your testimony and the  
 3 information that you've provided to us. Thank you.  
 4 COMMISSIONER BURG: Okay. I've got  
 5 a couple.  
 6 MR. SMITH: Commissioner Burg.  
 7 COMMISSIONER BURG: You testified  
 8 that you calculated on a per-subscriber cost basis;  
 9 is that correct?  
 10 THE WITNESS: Correct.  
 11 COMMISSIONER BURG: Does that mean  
 12 that you could calculate a different per-subscriber  
 13 cost for each company you considered then?  
 14 THE WITNESS: Correct.  
 15 COMMISSIONER BURG: That would be  
 16 the outcome. I just wanted to follow that through.  
 17 Probably just one other question to follow up on  
 18 Gary's a little.  
 19 I'm trying to visualize because I think the  
 20 idea that's been coming through is why didn't we do  
 21 all of these things, but if I understand it right,  
 22 what you had to do this time is decide -- what the  
 23 companies had to do at this time is decide whether  
 24 to ask for the exemption or suspension or exception  
 25 at this point, which would have to go to any

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1 carrier that would come.  
 2 THE WITNESS: Correct. And if we  
 3 take a look at the timeline, I believe that most,  
 4 you know, industry watchers were somewhat surprised  
 5 by the Order when the FCC released it, all the  
 6 things that were contained into it. You know, it  
 7 appeared that it went much further than most, you  
 8 know, people who follow that kind of stuff and  
 9 project those outcomes had anticipated.  
 10 And on top of that, you know, it was a rather  
 11 short timeline. You know, it came out on  
 12 November 10 and, you know, May 24 is when you have  
 13 to have everything there. So, you know, obviously,  
 14 you know, the first thing you need to look at is  
 15 oh, now we have this obligation that we didn't  
 16 think was going to be coming for another couple of  
 17 years and what's it going to cost, how do we get  
 18 our arms around it, what new things are in this  
 19 order that we don't -- that we didn't anticipate,  
 20 do we agree with them or not, et cetera, et cetera.  
 21 And that was kind of the genesis of starting  
 22 to evaluate what was going on. After looking at  
 23 all of those variables it became clear that  
 24 transport aside it was still a big number and, you  
 25 know, with the unresolved issues there were still

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1 some things that required and warranted further  
 2 study. Hence, the decision was made to seek a  
 3 suspension until those issues were resolved, you  
 4 know, or in the case of James Valley until  
 5 something else could be negotiated.  
 6 COMMISSIONER BURG: And I heard at  
 7 least one Commissioner say that perhaps they were  
 8 too aggressive and there were too many unresolved  
 9 issues to have forced this at this time.  
 10 What do you see as those unresolved issues  
 11 that we still have out there? That's part of  
 12 what's concerning me because it's one thing to  
 13 analyze the known but it's quite something else to  
 14 decide what the unknown -- and some of those are  
 15 decisions that the FCC still needs to make; is that  
 16 correct?  
 17 THE WITNESS: That's correct. The  
 18 issues and, you know, the largest issue that's out  
 19 there is, of course, transport because while the --  
 20 and, you know, I confess I'm not an attorney so  
 21 you'll have to let me paraphrase a few things but  
 22 my understanding of what's actually in the  
 23 Telecommunications Act is that, you know, in an LNP  
 24 environment we're not obligated to transport  
 25 outside of our service area.

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1 However, the FCC in their November 10 Order  
 2 made the assumption that all Interconnection  
 3 Agreements and all reciprocal compensation  
 4 agreements and all things like that obviously must  
 5 already be existing. Therefore, you know, you  
 6 should just do it.  
 7 Well, you know, I think that it's my personal  
 8 belief that that's probably true in the urban areas  
 9 but it's certainly not true for rural South Dakota.  
 10 So one of the unresolved issues is if the FCC --  
 11 was their intent really to place the burden of  
 12 transport on, you know, the Petitioners in this  
 13 case if it doesn't already exist? And so that's  
 14 one of the unresolved issues, and I think with the  
 15 negotiations that we've had today and some of the  
 16 outcomes like with James Valley, clearly, you know,  
 17 where it makes sense, you know, that obligation  
 18 falls back to the wireless carriers.  
 19 Other things that are not there today are  
 20 things like a level playing field. You know, the  
 21 FCC November 10 Order talked about the ability to  
 22 for a wireline subscriber to port his number to a  
 23 wireless carrier. However, they left unresolved  
 24 the reverse of that which was wireless to wireline.  
 25 The reason for that is we have the rate center

1 issue and the rate center issue deals with, you  
2 know, what do you consider a local call or a toll  
3 call if the rate center's down the line. So that's  
4 still an unresolved issue that warrants further  
5 study.

6 Then obviously the implementation costs are an  
7 issue. The porting interval's a huge issue because  
8 we have had discussion today where, you know, today  
9 if the porting interval would never change from  
10 four days and everybody has adequate time to do  
11 testing and coordination and things like that,  
12 yeah, there's some cheaper solutions that may work  
13 implementation-wise for SOA costs, but since that's  
14 a huge unknown and the direction appears to be that  
15 that interval is decreasing, well, then that adds  
16 the additional burden of having to go automated.

17 So there's some of those types of issues that  
18 continue to be unresolved. And, you know, those  
19 reasons plus the costs were the impetus for filing  
20 these petitions.

21 COMMISSIONER BURG: That's all.

22 CHAIRMAN SAHR: Good afternoon,  
23 Mr. DeWitte.

24 THE WITNESS: Good afternoon.

25 CHAIRMAN SAHR: Thank you very much

1 for coming today and obviously you have put  
2 substantial time and effort into the materials that  
3 you have submitted to the Commission so I  
4 appreciate that.

5 One of the things that Commissioner Hanson  
6 touched upon is the possibility of a working group  
7 and it was something kind of that I explored a  
8 little bit yesterday with Mr. Heiberger. If you  
9 were going to put together a working group to  
10 analyze some of these issues, and I think it's  
11 important to keep in mind the context of this being  
12 a fairly short time period, as you mentioned, from  
13 November until even today here in June to sit down  
14 and analyze what type of options might be out there  
15 and basically bring people together and try to work  
16 as much as possible on a team to try to figure out  
17 solutions here, who do you think would be  
18 appropriate people to be on that working group?

19 THE WITNESS: I believe that you  
20 would have to have representation from the major  
21 wireless carriers that are serving the state and,  
22 you know, maybe it's a subset of those groups or  
23 whatever. But, I mean, the obvious choices would  
24 be companies like Western Wireless, Verizon, Sprint  
25 and, you know, those types of companies. In

1 addition, I think you'd have to have representation  
2 from the rural independent local exchange carrier  
3 companies. And, you know, perhaps that would be  
4 individual company managers or a subset of those  
5 managers plus SDTA or something along that line.

6 And then, you know, if there are other  
7 interested parties, you know, perhaps, you know --  
8 you know, perhaps Qwest or somebody else like that  
9 would be a party to that too or SDN or, you know,  
10 companies like that. But, you know, all of those  
11 companies have substantial investment and  
12 substantial facilities in the state and those would  
13 be the obvious choices for people to, you know, to  
14 be included in a group that's evaluating what the  
15 best solution would be.

16 CHAIRMAN SAHR: And in your  
17 professional judgment if we were looking at  
18 solutions like we've seen on the diagram that's  
19 currently up here in the room and the following  
20 diagram, I guess they're from Exhibit 5, there's  
21 two solutions there, there may be others.

22 THE WITNESS: Uh-huh.

23 CHAIRMAN SAHR: What would be an  
24 appropriate time frame to expect a group to be able  
25 to sit down and do some reasonable analysis on

1 cost?

2 THE WITNESS: I guess I would have  
3 to answer that with I think that part of the answer  
4 to that question is how many actual alternatives  
5 are we going to be looking at? Because, you know,  
6 if we're looking at, you know, like 10  
7 alternatives, you know, that could obviously take  
8 much longer than if we, you know, are evaluating  
9 two or three or whatever.

10 But I guess that it's my opinion that it would  
11 need to be an absolute minimum of a year to 18  
12 months, you know, perhaps as long as two years.  
13 And the reason for that is that I think it would  
14 take a while just to get all of the information  
15 from all of the interested parties to, you know,  
16 understand, you know, what facilities are  
17 available, what kind of contracts need to be in  
18 place and those types of things, and perhaps the  
19 first goal is within the first six months or the  
20 first third of that or whatever to identify, you  
21 know, what tools are available, you know, from  
22 everybody's disposal.

23 Then the next phase of that would be to come  
24 up with alternatives and then evaluate those  
25 alternatives and perhaps select the first two or

1 three and maybe that would take six months of  
2 meetings.  
3 Then after that it becomes a question of, you  
4 know, how exactly is it going to be implemented,  
5 you know, are we going to have -- is it going to  
6 take six months or so to agree as to what the  
7 alternative needs to be and then, you know, once  
8 that agreement's made, then everybody has X-amount  
9 of time to implement, or are those done in concert  
10 or how that would go.

11 But, you know, I guess that, you know, it's  
12 our feeling that a six-month interval like, you  
13 know, we were given before clearly is an adequate  
14 time. And I guess it depends on, you know,  
15 scheduling and how often the meetings are and all  
16 of that stuff as to what the appropriate time is.  
17 But I certainly think it's probably in excess of a  
18 year.

19 CHAIRMAN SAHR: What if the parties  
20 speak on a more frequent basis than we've seen in  
21 these proceedings where we've gotten into a little  
22 bit of finger pointing about who was supposed to  
23 call whom and we've limited it to identifying  
24 options and doing cost analysis on the options and  
25 didn't go any further than that and brought that to

1 the Commission for evaluation so we're not going to  
2 go through and have postmediation meetings, those  
3 types of things after the analysis is done. How  
4 long do you think that would take?

5 THE WITNESS: I would estimate that  
6 that would probably be around a year.

7 CHAIRMAN SAHR: Go ahead.

8 THE WITNESS: Perhaps longer. But a  
9 year is what I would say.

10 CHAIRMAN SAHR: And this might be a  
11 question better asked for one of the other  
12 managers, but do you know if one of the clients  
13 that you represent, if we are offering a wireless  
14 product, would they be able to -- a customer there  
15 be able to port from their wireline number to their  
16 wireless product?

17 THE WITNESS: I don't know.

18 CHAIRMAN SAHR: Okay. I may ask  
19 that question again later.

20 THE WITNESS: Okay.

21 CHAIRMAN SAHR: Then it may be a  
22 little bit comparing apples to oranges but I'm just  
23 kind of curious, especially with your background  
24 and expertise, do you have any North Dakota  
25 clients?

1 THE WITNESS: Yes.

2 CHAIRMAN SAHR: Have any of them  
3 filed for forbearance in North Dakota?

4 THE WITNESS: Yes, they are.

5 CHAIRMAN SAHR: Are the issues  
6 relatively similar in North Dakota as South Dakota  
7 or do we get into different issues depending on the  
8 states or more technology based or how do those  
9 sorts of things compare?

10 THE WITNESS: The issue in North  
11 Dakota was we used the same formula arguments, cost  
12 analyses, all of those types of things for our  
13 North Dakota clients and we actually submitted  
14 those petitions around the same time that we  
15 submitted these.

16 However, the North Dakota Commission  
17 unilaterally decided that, you know, they, based on  
18 some state regulation, they didn't have the  
19 authority to rule on it, or at least that's what I  
20 was told. But subsequently all of those petitions  
21 were denied.

22 CHAIRMAN SAHR: And where do your  
23 clients go from there? Did they go to the FCC  
24 then?

25 THE WITNESS: I think it really

1 depends on which client it was. Most of our  
2 clients opted to go ahead and begin the process of  
3 upgrading their switches and, you know, going  
4 through the preparations that they needed to, you  
5 know, complete in order to become LNP compliant.

6 CHAIRMAN SAHR: Are they doing  
7 routing like you've proposed for ITC, or are they  
8 doing different types of routing?

9 THE WITNESS: What their plan is,  
10 they've ordered additional trunking facilities.  
11 They're upgrading their switches, they've got the  
12 software in there, they just aren't actually  
13 building the facilities until they actually get a  
14 request.

15 And for the ones that I know of, none of them  
16 have gotten a request at all so they haven't, you  
17 know, built or activated any of the facilities.  
18 They have upgraded their switches to have the  
19 appropriate software.

20 CHAIRMAN SAHR: So the answer, are  
21 they using similar routing proposals or --

22 THE WITNESS: No. What they're  
23 doing is they've got everything ready to go, you  
24 know, based on -- you know, if they -- in some of  
25 these areas it's if they ever get a request they



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1 are planning to, if necessary, you know, route it  
 2 over its own dedicated facilities like that.  
 3 (Indicating).  
 4 However, you know, to date they haven't been  
 5 approached by anybody who's interested in the  
 6 service. They also have not been approached or  
 7 approached anyone for negotiation.  
 8 CHAIRMAN SAHR: How do the recurring  
 9 and nonrecurring costs under the North Dakota  
 10 method compare to the South Dakota requests that  
 11 we've had or the analysis that you've done?  
 12 THE WITNESS: In the petitions, the  
 13 arguments and the estimates that I used were they  
 14 were the same in terms of format and assumptions.  
 15 Obviously the numbers were different. In actual  
 16 implementation, you know, most of the companies  
 17 have opted to go with a low-tech interface just  
 18 because they can do that by signing an NDA and  
 19 getting things rolling. However, they're all  
 20 prepared to go with an automated SOA should the  
 21 porting interval be reduced.  
 22 But they've opted to, you know, kind of wait  
 23 and, you know, not impose any end-user charges or  
 24 anything like that until they actually get a real  
 25 request for a port because that way they can

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1 evaluate exactly what their costs are based on the,  
 2 you know, outcome of courts and all of that kind of  
 3 stuff at that point before they actually nail that  
 4 end-user charge down.  
 5 CHAIRMAN SAHR: We actually talked  
 6 yesterday about the Minnesota, and I'll term it  
 7 proposal, because as far as I know that hasn't been  
 8 approved by anyone and it's part of a pending case.  
 9 THE WITNESS: Yeah.  
 10 CHAIRMAN SAHR: Do you know, with --  
 11 would you just critique that type of -- or analyze  
 12 that for kind of the pros and cons of how that  
 13 would work or would not work in South Dakota?  
 14 MS. SISAK: Before the witness  
 15 answers, may I remind the Commission I believe the  
 16 witness has testified that he's really not familiar  
 17 with that proposal so if you would like him to  
 18 address something specifically in it maybe it would  
 19 be helpful if he had a chance to read it.  
 20 CHAIRMAN SAHR: I was trying to stay  
 21 away from that piece of paper. I guess I can cut  
 22 to the chase. Are you able or unable to make  
 23 generalizations about the MIC proposal that would  
 24 give us some sort of application to South Dakota?  
 25 THE WITNESS: At this point I am

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1 unable to do that because I don't exactly know what  
 2 the rates are or what is included or not included  
 3 in those rates.  
 4 So other than the 30,000-foot view that we've  
 5 talked about where the other picture that was up  
 6 there, you know, apparently that mimics it. I  
 7 don't know if that's true or false. But I don't  
 8 know what the rates represent or, you know, what  
 9 else is in there so I can't comment on it.  
 10 CHAIRMAN SAHR: That's  
 11 understandable you don't have the firsthand  
 12 knowledge that you have from the North Dakota  
 13 situation.  
 14 Have you done any work for any clients in  
 15 other states on implementing LNP?  
 16 THE WITNESS: You mean from the  
 17 suspension of petition standpoint?  
 18 CHAIRMAN SAHR: Just technically  
 19 implemented.  
 20 THE WITNESS: Yes. Yes, we have.  
 21 CHAIRMAN SAHR: Well, could you talk  
 22 a little bit about what sort of methods are being  
 23 used there?  
 24 THE WITNESS: State-by-state basis.  
 25 You know, there are companies that are in other

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1 states -- we have a client in particular in Ohio  
 2 that elected early on not to seek an LNP waiver  
 3 based on where they were located. They figured  
 4 that, you know, they were close enough to a metro  
 5 area it would never fly. So went ahead and made  
 6 the decision early on to upgrade their switches.  
 7 So they went ahead and upgraded. They put an  
 8 automated service order administration and it's up  
 9 and operational. They haven't set up trunk  
 10 facilities yet, but they have actually talked to  
 11 the two major carriers that are in their area, no  
 12 resolution at this point, but, you know, they're  
 13 trying at this point to, you know, get direct  
 14 connections into their service areas.  
 15 And they have been ongoing in those  
 16 negotiations now going on eight months from my  
 17 understanding. But the bottom line is that they  
 18 have begun to implement all of these issues -- or  
 19 all of these costs based on, you know, their belief  
 20 and their analysis that it was, you know, something  
 21 that their State Commission was not going to allow  
 22 them to get a suspension on.  
 23 So, you know, from that experience with, you  
 24 know, coming up with, you know, what it costs to do  
 25 the translations, what it costs to do testing for

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1 carriers, you know, if there's -- you know, if they  
 2 have to duplicate some dialing plan or whatever,  
 3 you know, a lot of the experiences that came from  
 4 that plus another company in Iowa is where those  
 5 real-world experiences come from.  
 6 And then of course just translations  
 7 experience in general.  
 8 CHAIRMAN SAHR: Thank you. And  
 9 maybe this is covered in your prefiled testimony  
 10 and I just missed it.  
 11 When we talk about the costs, for instance,  
 12 that are outlined on your exhibits, and I'm not  
 13 going to ask any specific questions, but those type  
 14 of costs, are any of those costs the companies  
 15 might be reasonably expected to incur within, say,  
 16 a few years anyway? When you sort of talk about  
 17 the upgrades, are any of these the sort of things  
 18 that perhaps would be -- I don't want to use the  
 19 term regular maintenance, but would it be something  
 20 that might be expected to happen at some point in  
 21 time anyway?  
 22 THE WITNESS: And I think the answer  
 23 to your question is -- and most of those costs we  
 24 didn't include anyway because they were already at  
 25 the proper generic level or they already had the

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1 software or whatever.  
 2 You know, if we look at, you know, the  
 3 companies that we've represented, with the  
 4 exception of James Valley they're all Nortel  
 5 products. Nortel is a vendor -- is notorious I  
 6 believe would be the correct word for charging a  
 7 right-to-use fee for just about everything that one  
 8 of their switching systems performs.  
 9 So unless you specifically would order  
 10 something like LNP and you are, you know, on a  
 11 Nortel platform, you would "never get it for free"  
 12 unless you paid for it.  
 13 CHAIRMAN SAHR: Are any of the  
 14 companies or cooperatives that did not file in  
 15 South Dakota, are any of those clients of yours?  
 16 THE WITNESS: I guess that I wasn't  
 17 aware that there was companies that hadn't filed.  
 18 But I guess not. Or at least if it is one of our  
 19 clients, I'm not aware of it.  
 20 CHAIRMAN SAHR: And are you familiar  
 21 with the James Valley system?  
 22 THE WITNESS: Yes.  
 23 CHAIRMAN SAHR: My understanding is  
 24 there's negotiations on the transport costs. Is  
 25 that correct?

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1 THE WITNESS: Correct.  
 2 CHAIRMAN SAHR: Are the other costs  
 3 that you would see, are they still going to need to  
 4 be borne by James Valley as far as the other  
 5 nonrecurring and monthly recurring costs outside  
 6 the transport?  
 7 THE WITNESS: If we refer to the  
 8 exhibit, the --  
 9 CHAIRMAN SAHR: Are we looking at  
 10 3A?  
 11 THE WITNESS: Yeah. The technical  
 12 implementation and testing, a portion of that will  
 13 still be required because that number is generated  
 14 on a per-carrier basis. But the bottom line,  
 15 they're still going to have to look at what -- you  
 16 know, what a -- you know, what needs to be done to  
 17 set up proper routing translations for Western  
 18 Wireless pursuant to their negotiations. So some  
 19 of that will still be there.  
 20 The query charges attributable to wireline  
 21 will still be there. And I guess that I haven't  
 22 asked them about what their plans are for marketing  
 23 or things along that line to explain what the  
 24 end-user charge is but I will assume they will  
 25 still incur some costs there.

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1 And then, you know, I guess that I don't know  
 2 the details on, you know, what their plans are on  
 3 the recurring end with some of those. But, you  
 4 know, they will have some testing and translations  
 5 and service order activity that will have to be  
 6 done, and, you know, if they're -- and I guess  
 7 that's driven by the number of ports and the number  
 8 of people they have trained and all of that kind of  
 9 stuff.  
 10 So, you know, there are some of those things  
 11 that are still going to be there. However, I don't  
 12 know what James Valley's plans are in terms of  
 13 creating an end-user charge. But some of those  
 14 types of things would obviously be candidates for  
 15 it.  
 16 CHAIRMAN SAHR: That's partially  
 17 where I was going with it. I can ask one of the  
 18 managers if you don't know how they intend to  
 19 handle it. And it's probably and possibly beyond  
 20 the scope of this Commission's proceeding and  
 21 beyond the scope of what we may have jurisdiction  
 22 over, but I am curious on the consumer impact. Do  
 23 you know, do the providers intend to do a straight  
 24 pass-through on the charges or are they going to  
 25 eat part of this or do you know anyway on how they

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1 intend to break down the costs?

2 THE WITNESS: I have absolutely no

3 idea. And I believe part of that decision is

4 predicated on, you know, what actually is the

5 impact going to be for things like transport or

6 whatever.

7 So, you know, I don't know if there's any

8 preconceived notions on they're going to go halfs

9 or what they may do. I have no idea.

10 CHAIRMAN SAHR: Nontechnical term;

11 right? And the reason I'm asking is even taking

12 out -- again, I'm pleased to hear negotiations are

13 going well on that particular one, but even taking

14 out all or part of the transport costs there's

15 still some sizable costs that are going to be

16 associated with this, and I was just curious to see

17 if you knew what the end impact on the consumer

18 would be.

19 THE WITNESS: And I don't.

20 CHAIRMAN SAHR: Okay. And that's

21 probably better off for me to ask one of the

22 managers. So I appreciate your assistance and

23 thank you for coming to Pierre.

24 THE WITNESS: Thank you.

25 MR. SMITH: I have a couple of

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1 questions, Mr. DeWitte, and it will be short and

2 we'll move on.

3 If we look at the bottom of the James Valley

4 exhibit, inside that box it says, LNP cost per line

5 per month excluding transport.

6 THE WITNESS: Uh-huh.

7 MR. SMITH: Again, these eyes are

8 mighty old but I think that looks like --

9 THE WITNESS: 55 cents.

10 MR. SMITH: 55 cents? And then what

11 is the next number?

12 THE WITNESS: 30.94.

13 MR. SMITH: No. I'm looking to the

14 right, the monthly --

15 THE WITNESS: That would be 0.61 or

16 61 cents.

17 MR. SMITH: So basically if they did

18 a straight line end-user charge we're talking 61

19 cents if the transport issue is totally solved?

20 THE WITNESS: Actually I believe

21 that the 61 cents is a -- it's a -- the calculation

22 was actually put in by Mr. Williams and I just left

23 it there, but if you take the 55 cents that is just

24 a straight mathematical calculation and you take it

25 times a factor of 12 percent so, in other words,

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1 1.12, that's what the 61 percent is. And I believe

2 what Mr. Williams was trying to show there is with

3 growth and inflation and, you know, rate of return

4 and all of those types of factors in there, it

5 would be a higher number. So I have no idea where

6 he got the 12 percent. It's just that I just left

7 it in there because it was his exhibit to start

8 with.

9 MR. SMITH: Okay. I think just to

10 get an order of magnitude, that's the kind of order

11 of magnitude we'd be looking at if the transport

12 element is totally out of there?

13 THE WITNESS: For James Valley,

14 that's correct.

15 MR. SMITH: So we're not going to be

16 talking -- at least if the Commission were to

17 approve that settlement, this isn't going to be a

18 string-them-up kind of extra charge from the

19 Commission.

20 THE WITNESS: I guess the only

21 caveat I would put into my answer is I believe that

22 would be true if Western Wireless were the only

23 carrier. However, you know, if there are other

24 carriers that, you know, have some other

25 arrangements, it's hard to say what that number

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1 would change.

2 But I think in general, you know, I believe

3 the answer to your question is yes.

4 MR. SMITH: Okay. Looking at this

5 second page of Exhibit 5, Western Wireless which

6 has not been admitted as evidence, but just looking

7 at it for me to try to understand this, as far as

8 you know -- and maybe you don't know what happens

9 below the box labeled Qwest Sioux Falls LATA tandem

10 but down to that point does this reflect the

11 transport architecture Interstate uses?

12 THE WITNESS: I don't believe it

13 does because I don't think it accurately depicts

14 Interstate's host remote relationships.

15 MR. SMITH: And that's one of the

16 questions I had is there aren't any lines --

17 there's nothing on here that seems to indicate how

18 things got from this out to these other facilities.

19 How does that work?

20 THE WITNESS: Let's see. I guess,

21 you know, without drawing it out, Interstate has a

22 DMS-10 what is called HSO SSO arrangement. SSO and

23 HSO is a very specific Nortel architecture in that

24 it's not really host remote, but it -- you know, it

25 allows you to centralize some maintenance and some

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1 administrative and some amber recording functions  
 2 and things along that line. But the bottom line is  
 3 is that they have several stand-alone host offices  
 4 that host remotes and then they have remotes that  
 5 feed into those host offices. Those are all  
 6 connected on ITC's intercompany SONET facilities  
 7 and then run to SDN from Clear Lake -- or actually  
 8 I think it's -- and I'll have to check, but I  
 9 believe it's direct trunks from each host office is  
 10 the way it goes.

11 MR. SMITH: To SDN?

12 THE WITNESS: To SDN. And then, of  
 13 course, Qwest has their terminating facilities and  
 14 I'm unsure as to exactly how many offices that  
 15 hits.

16 MR. SMITH: So those lines that go  
 17 from Qwest, the blue lines are just heading north?

18 THE WITNESS: Yeah. Right. I don't  
 19 know if all the Qwest traffic terminates in Clear  
 20 Lake or if it terminates in each individual host  
 21 office. I will have to check. I don't know that  
 22 off the top of my head and I didn't bring our  
 23 network diagram with me.

24 MR. SMITH: So the idea of using the  
 25 two-way tandem proposal is basically just to

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1 reverse those blue lines -- I guess emanating now  
 2 from the Qwest facility, it would reverse the  
 3 direction of those or it would add the capability  
 4 of going back the other way as well?

5 THE WITNESS: Yeah. From a physical  
 6 connection standpoint the idea is to use the same  
 7 physical connections but yet change the trunk  
 8 signaling and allow those facilities to be two-way  
 9 as opposed to one-way. However, as I earlier  
 10 pointed out, it's not quite that simple in terms of  
 11 looking at it as a viable option.

12 MS. ROGERS: There's several other  
 13 impacts that need to be studied.

14 MR. SMITH: Are those impacts such  
 15 as phantom traffic?

16 THE WITNESS: Well, such as phantom  
 17 traffic, but it even goes further than that because  
 18 it deals with contractual relationships that ITC  
 19 may have on where they actually deliver their  
 20 traffic. It has to do with how such a connect --  
 21 you know, a change in architecture would affect  
 22 their settlement structure, you know, what some of  
 23 the downstream impacts are and things along that  
 24 line. So, yeah, I guess my big caution is is that  
 25 while it seems simple on the surface, you know, I

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1 don't want to go into an hour-long dissertation on  
 2 what all the complexities are but it's an extremely  
 3 complex analysis that would have to be done to  
 4 determine whether it's even a viable solution.

5 MR. SMITH: Does that analysis get  
 6 any simpler if SDN -- if there's a line running  
 7 from SDN down here?

8 THE WITNESS: I think that, you  
 9 know, part of what needs to happen there is that,  
 10 again, you know, SDN would have to, you know,  
 11 develop whatever rates that they need to have in  
 12 order to terminate facilities. All the carriers  
 13 would have to agree to have a POI there. And then  
 14 each individual company would have to develop what  
 15 the transiting rates are to get the traffic from  
 16 SDN to their local areas.

17 So that, again, is an option that's worthy of  
 18 consideration, but it also needs a significant  
 19 amount of study.

20 MR. SMITH: And this is my last  
 21 question and we'll get on with it. If we were to  
 22 look at the James Valley settlement agreement, I  
 23 mean, what that is, as I understand it, it's we're  
 24 just drawing a line directly from Western Wireless  
 25 to Groton if Groton were one of these boxes.

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1 THE WITNESS: That's correct.

2 MR. SMITH: I guess my question is  
 3 if the line just goes to Groton -- is Groton a host  
 4 office?

5 THE WITNESS: That is James Valley's  
 6 host office.

7 MR. SMITH: So in other words, once  
 8 you enter that particular host office then  
 9 everything else -- not post office, host office,  
 10 then everything else is handled with whatever  
 11 connects these boxes?

12 THE WITNESS: The answer to that is  
 13 partially, yes. The other key point on the James  
 14 Valley agreement was that establishment of a POI in  
 15 each of the local calling areas. And what that has  
 16 to do with is what constitutes a local call. Well,  
 17 obviously even though there are exchanges that are  
 18 all connected to a host office, you know, some  
 19 remotes calling other remotes is a toll call  
 20 because of the way the calling plan is. Some of  
 21 them are local.

22 With Western Wireless's agreement they're  
 23 taking the span that's appearing in Groton and  
 24 there's separate DSOs going to each of those  
 25 calling areas so we have a POI in each calling area

1 to respect the local and toll calling plans.

2 MR. SMITH: Basically you're saying  
3 the architecture of that more resembles the first  
4 page of Exhibit 5 than my one line --

5 THE WITNESS: Yeah. It represents  
6 it because of the agreement that Western Wireless  
7 has agreed to with, you know, yeah, they're only  
8 running one DS-1 which is obviously a lot more  
9 efficient than running multiple DS-1s but yet it  
10 adheres to their connection agreement in terms of  
11 where the POIs need to be, it respects the idea  
12 that, you know, the LEC doesn't have to transport  
13 traffic outside of their service area and those  
14 types of issues.

15 MR. SMITH: Thank you. Ms. Sisak.  
16 REDIRECT EXAMINATION

17 BY MS. SISAK:

18 Q Thank you. Mr. DeWitte, I'd like you to take a look at  
19 your Exhibit 1A and 1B in your direct testimony. I  
20 believe Mr. Gerdes asked a number of questions  
21 comparing these two documents.

22 Can you please tell me why the, I guess,  
23 bottom line number under switch-related investment in  
24 Exhibit 1A is different than the bottom line number on  
25 switch-related investment on 1B -- that would be why is

1 the \$42,200 different than the 129,664?

2 A There are several reasons. The first and largest  
3 reason is that with Exhibit 1A we were only upgrading  
4 the switches that are required to serve Webster with  
5 LNP software. So the software feature number is less,  
6 obviously. And since we're only dealing with one  
7 carrier as opposed to multiple carriers, you know, the  
8 numbers for translations and things along that line  
9 were reduced, you know, by the appropriate number of  
10 carriers. So that's why there's a significant  
11 difference between the 129,664 and the 42,2.

12 Q Can you do a similar comparison for your NPAC-related  
13 costs?

14 A Yes. Again, looking at the numbers and how they're  
15 driven and the formulas, the line items for the cost  
16 categories for LNP queries, for instance, is based on  
17 the number of lines that are actually being queried,  
18 you know, how many originating attempts they would  
19 have, et cetera, et cetera, et cetera.

20 But the bottom line is since we're dealing  
21 with a smaller number of lines on this exhibit in  
22 Exhibit 1A that is as compared to 1B it reduces the  
23 number of queries and query charges similarly.

24 The same type of analysis goes on through the  
25 technical administrative, but the real key is on the

1 transport costs. You know, the thing that I think is  
2 important to realize on this exhibit is the reason that  
3 the transport costs are zero is not because there are  
4 not any transport costs. It's just that the costs of  
5 transport are addressed in the Interconnection  
6 Agreement as to what percentage of that facility is  
7 paid by which party rather than having a cost just be  
8 out there.

9 So, you know, since those costs are covered  
10 by that agreement, you know, they weren't something  
11 that needed to be shown on this particular exhibit.  
12 And that was -- that's the big reason why it's there.  
13 It's not that the transport cost is zero. It's just  
14 there's an agreement to cover off the percentages of  
15 the facility and the transport that need to be paid by  
16 each party.

17 Q Thank you. And looking at switch-related investment  
18 costs, as a point of clarification I believe you were  
19 asked whether any of these switch-related investment  
20 costs involved anything other than LNP, in other words,  
21 would they be incurred even if LNP was not implemented.

22 A The answer to that is no. These are all as a result of  
23 LNP.

24 Q And if Interstate is required to implement LNP for all  
25 wireless carriers and for all wireline carriers, which

1 of these exhibits represents that total cost?

2 A Exhibit 1B is representative of those costs.

3 Q And just to clarify, does it represent the total cost  
4 and also the total per-line cost?

5 A That would be correct. With the caveat that it's the  
6 total lines in South Dakota. Obviously it's not all of  
7 ITC's because I did include the Minnesota lines in  
8 there.

9 Q Thank you. Can you clarify how calls are routed to  
10 CMRS providers by Interstate today?

11 A Yes. With the exception of the existing 2-B  
12 connections, you know, that they already have for  
13 direct connections to wireless carriers, those wireless  
14 calls are routed through the appropriate switch to SDN  
15 as toll call. SDN then routes it to the appropriate  
16 carrier.

17 Q Can you clarify what that means? Could that  
18 arrangement be kept in a porting environment?

19 A The issue with using that same toll facility for  
20 porting now local calls is it creates an administrative  
21 issue where, you know, based on the routing numbers if  
22 we're routing everything as toll but yet it's supposed  
23 to be local, there's no simple way to separate those  
24 records so we end up with inaccurate toll records that  
25 either have to be manually corrected before billing

1 goes out or there's an amount of toll that would have  
2 to be absorbed by Interstate, which is why -- you know,  
3 in our analysis the way that we avoid that problem is  
4 if we create direct trunk groups that's understood to  
5 have only local traffic on it that leaves our exchange,  
6 we need to have dedicated facilities to carry that  
7 traffic to the appropriate carrier.

8 And, you know, so the important thing to  
9 realize is that in order to keep the rating and routing  
10 accurate for CABS so we don't exacerbate the existing,  
11 you know, phantom traffic problems we have or any other  
12 service issues, there was really no choice but to  
13 assume dedicated facilities were going to be required  
14 and that each carrier would require their own POI.

15 **Q** If ported calls were routed over toll facilities would  
16 any additional transport costs be incurred?

17 **A** If they were ported over the existing toll facilities?

18 **Q** Correct.

19 **A** No.

20 **Q** So the current arrangement with Western Wireless and  
21 other wireless carriers could be maintained and there  
22 would be no transport costs?

23 **A** Correct. However, as we just discussed, that would  
24 create issues with, you know, who pays for the excess  
25 toll that is supposed to be on a local call now. If

1 the wireless carriers were willing to eat that, I guess  
2 it wouldn't be a problem.

3 **Q** Does Interstate currently design its network to be the  
4 cheapest possible?

5 **A** Interstate in particular and the independent telephone  
6 companies as a whole have, you know, prided themselves  
7 with the support of the Commission and, you know, time  
8 and time again implemented a network that benefits the  
9 rural subscribers of South Dakota and made things  
10 possible.

11 You know, obviously the first example of that  
12 was SDN and centralized equal access. The issue that  
13 is discussed a lot is the -- you know, we're talking  
14 about cost benefit. And in many cases, you know,  
15 cheapest does not always mean best. There are other  
16 things to take into consideration. You know, being  
17 able to actually deliver a service ubiquitously across  
18 the entire state is an issue.

19 MR. WIECZOREK: I'm going to render  
20 an objection at this point. He's not a general  
21 policy witness, he's a cost witness, and to start  
22 talking about ubiquitous service and those things  
23 is outside what he's been designated to cover under  
24 his testimony.

25 MR. SMITH: Overruled.

1 **A** So, you know, part of being able to, you know, take a  
2 look at what benefits the subscribers in rural areas  
3 and, you know, makes things possible, yeah, there may  
4 be things that are in the public interest that aren't  
5 necessarily the low-cost solution but yet they are the  
6 most reliable. They do have, you know, the technology  
7 and the bandwidth and all of the things that are  
8 necessary to deliver those services to places where  
9 typically, you know, unless things are aggregated, you  
10 know, a lot of carriers aren't interested in serving.

11 **Q** Is it your experience local exchange carriers and in  
12 particular Interstate generally design their network  
13 for tomorrow or do they plan a more long-term horizon?

14 **A** Interstate in particular and the independent companies  
15 as a whole are clearly viewed as leaders in the  
16 deployment of technology into their networks. And  
17 there are countless examples where the, you know,  
18 supposed larger, bigger, you know, more cash heavy  
19 RBOCs have lagged severely behind the independents in  
20 terms of deploying new technology into their networks.

21 You know, the independent companies today are  
22 taking the investment dollars that they have available  
23 and investing heavily in broadband applications, fiber  
24 to the home, next-generation switching, all of the  
25 things that they need to remain competitive and, you

1 know, also expand their portfolio to, you know, provide  
2 the services to their subscribers that their  
3 subscribers need. So they're constantly putting the  
4 most technically advanced equipment and facilities into  
5 their network that's economically feasible.

6 **Q** Did you follow similar logic on coming up with your  
7 anticipated or estimated LNP costs?

8 **A** From the standpoint of, you know, looking at what would  
9 be required, what would actually be necessary to  
10 implement LNP, you know, if the porting interval has  
11 changed or, you know, we had X-number of carriers thus  
12 and so forth, the answer to that question is yes. We  
13 did not look for the cheapest, dirtiest solution  
14 available.

15 What we looked at was the solution that would  
16 likely be required to support the applications and the  
17 functions in the time frames that they would need if  
18 they were to -- you know, if they had to come up with a  
19 fixed end-user charge and not be able to change.

20 **Q** There was also some discussion on the situation in  
21 North Dakota. Can you explain whether in general  
22 routing and in particular routing of centralized equal  
23 access is the same in North Dakota and South Dakota?

24 **A** North Dakota does not have a centralized equal access  
25 tandem. There are only three states that I'm aware of

1 that have such an arrangement, those states being  
2 South Dakota, Iowa, and Minnesota.  
3 The idea behind a centralized equal access  
4 network is that typically the smaller rural independent  
5 telephone companies, you know, back in the '80s got  
6 together. They were wanting to be able to provide  
7 equal access, which at the time was there on paper. It  
8 wasn't there in reality because none of the carriers  
9 would come to a lot of the sparsely-populated rural  
10 areas.

11 So what they did was created a tandem switch  
12 and built a network behind it, aggregated all of their  
13 traffic delivered to one place which gave the carrier  
14 some interest because now they had access to rather  
15 than a thousand access lines, tens of thousands of  
16 hundreds of access lines. So the way that that works  
17 is that all of the companies send all of their  
18 originating toll traffic to SDN and SDN delivers it to  
19 the appropriate carrier.

20 On the terminating side all of the IXC's,  
21 companies like MCI and AT&T and those guys, deliver  
22 their traffic to SDN, SDN delivers it to the ILECs.  
23 The exception to that is Qwest as part of the  
24 arrangements that were being negotiated back then  
25 reserved the right since they already had facilities

1 into these exchanges to terminate their toll traffic  
2 from their Qwest tandem to the individual ILECs and  
3 that was granted. And so that's how in general toll  
4 traffic is routed in South Dakota today.

5 Whereas in states like North Dakota, you  
6 know, each company would have two-way facilities that  
7 would go to the access tandem of their choice. It  
8 could be an RBOC. It could be somebody else.

9 **Q** Does that make a difference for LNP purposes?

10 **A** It makes a difference for LNP purposes when we look at  
11 how the traffic needs to be routed and which carrier  
12 it's actually going to. In terms of how the SS7  
13 network works with doing database queries and things  
14 like that, there are no differences. And so it's a  
15 rating and routing issue more so than it is a being  
16 able to query dips and things along that line.

17 **Q** And can you clarify, I believe there were a number of  
18 questions from Western Wireless concerning their Qwest  
19 option. Is it your understanding that that point of  
20 interconnection would be -- where would that be in  
21 relation to Interstate's service territory?

22 **A** Judging on what I've heard, obviously I haven't seen  
23 any final proposals, but it appears that the point of  
24 interconnection with Qwest would be apparently, you  
25 know, the backside of the Qwest tandem because it

1 sounds like the idea is that, you know, all of the  
2 traffic that would be destined for in this case Western  
3 Wireless would traverse that one -- what is now a  
4 one-way terminated-only facility up to the Qwest switch  
5 and then of course Qwest would either transit it or  
6 switch it to Western Wireless.

7 **Q** I'm sorry.

8 **A** I was going to say so I don't exactly know what the  
9 back end of that connection looks like. But the bottom  
10 line there is the point of interconnection would  
11 clearly not be the Petitioner's exchange.

12 **Q** And is it your understanding or what is your  
13 understanding concerning ITC's obligations to transport  
14 traffic to such a point outside of their exchange?

15 **A** My understanding is that they have no such obligation.  
16 However, unfortunately the November 10 Order didn't  
17 sufficiently address transport where it doesn't exist.  
18 So in order to identify what some of the transport  
19 costs needed to be, they were included on the exhibit.

20 So it's my understanding that the Petitioners  
21 are not obligated to transport outside the facility.  
22 Their reasonable expectation is that they would have a  
23 point of interconnection within their network that the  
24 wireless carriers would come to.

25 **Q** So if this Commission found that Interstate was not

1 required to transport traffic outside of its service  
2 area, what would the transport cost be on your LNP  
3 exhibit?

4 **A** That would depend on what the Commission ruled in terms  
5 of the number of POIs and how it would relate to the  
6 number of service areas. In ITC's case where they have  
7 no arrangements for EAS between exchanges that would  
8 require a POI to each exchange and thus the facilities  
9 would have to hit every one of their exchanges in order  
10 to be able to respect the local calling areas.

11 So, in other words they'd have to have 24  
12 POIs in ITC's service area.

13 **Q** And under current arrangements who would pay for that?

14 **A** That would be the -- under current arrangements?

15 **Q** Correct.

16 **A** Under the -- my understanding is that the wireless CMSR  
17 provider would be responsible for paying for that. Or  
18 I should say should be responsible for paying for that.

19 (Pause)

20 MS. SISAK: Sorry for the delay. I  
21 believe that's all of my questions.

22 MR. SMITH: Mr. Coit?

23 MR. COIT: No. I don't have any.

24 MR. SMITH: Mr. Wiczorek.

25 MR. WIECZOREK: Thank you.

RECROSS-EXAMINATION

1 BY MR. WIECZOREK:

2 Q You mentioned toll charges. You mentioned the tolls  
3 would need to be absorbed by Interstate if you used the  
4 existing toll facilities. Do you remember that?

5 A Yes. I said if they aren't manually taken out and  
6 removed from the CABS records.

7 Q If you use the existing facilities porting volume you  
8 forecast, how much cost would Interstate have to absorb  
9 in that case?

10 A I haven't studied that so I don't know the answer.

11 Q Well, you project two ports; correct?

12 A Two ports per month, correct.

13 Q Right.

14 A Yes.

15 Q And you project each receiving six calls per day?

16 A I believe that is correct, yes.

17 Q Okay. And you can assume an average time of a  
18 telephone call; right?

19 A Right.

20 Q What would be an average time you'd find acceptable?

21 A I believe 3 and a half to 4 minutes.

22 Q Let's use 4 because it's easier.

23 A Okay.

24 Q So 6 times 4 is 24 minutes?

1 A Uh-huh.

2 Q Per two ports.

3 A Okay.

4 Q So that's, follow me on my math, 58 minutes?

5 A Okay.

6 MR. BEST: 48.

7 MR. WIECZOREK: I'm sorry. Thank  
8 you.

9 Q And then how much would -- how much cost would that  
10 require Interstate to absorb in a day then?

11 A I'm not sure. Because I don't know what the rate per  
12 minute is.

13 Q Well, what do you think -- what's an estimate that you  
14 have on that rate per minute?

15 A I don't have an estimate for it.

16 Q Okay. Do you think it's more than a dime a minute?

17 A I don't know.

18 Q Well, it's certainly -- well, let's just assume a dime.

19 MS. SISAK: Hypothetical now?

20 MR. WIECZOREK: Yeah. Assume it's a  
21 dime.

22 Q So the cost they would be absorbing on a daily basis  
23 would be \$4.80?

24 A Your math would be correct.

25 Q Okay. And let's assume 5 just to keep my math easier

1 obviously and even building in some extra time let's  
2 even assume additional ports, I mean, what would that  
3 equate to a year in the absorbed cost? 5 bucks a day.

4 A I'll figure it out here quick. I can't multiply in my  
5 head on the stand.

6 VICE CHAIR HANSON: 1,825.

7 MR. WIECZOREK: 1,825.

8 Q 1,825 is the number we're using?

9 A Hypothetically.

10 Q All right. 1,825. And rather than absorbing that cost  
11 what Interstate is proposing to do is spend monthly  
12 recurring \$157,000 to provide porting; correct?

13 A Based on the information and the ruling and, you know,  
14 all of the rules that were in place, yes.

15 Q And essentially we could do the same mathematical model  
16 for each one of the companies you're testifying for?

17 A Yes.

18 Q So, for example, where a company -- well, that's all I  
19 have on that. It just doesn't seem to stick with what  
20 you're testifying to. Maybe you can explain it to me.  
21 You said SDTA and these independent companies made  
22 things possible. Do you remember that?

23 A Yes.

24 Q Do you remember saying that? And I just can't  
25 reconcile absorbing costs of \$2,000 a year with the

1 proposal that you're putting forth to spend the  
2 \$157,000 a month. Do you see my confusion there?

3 A Yeah. And I think that you're missing the larger point  
4 and that point is, A, they shouldn't have to absorb  
5 anything and, B, if we looked at the reciprocal  
6 compensation agreement that Western Wireless signed  
7 with the independent companies, you know, the agreement  
8 there was that there would be a POI in each of their  
9 offices and that you would meet them there.

10 You know, so I guess that, you know, to me  
11 that means that if you're interested in, you know,  
12 having LNP services with, you know, the companies then,  
13 you know, the transport and how to get there, you know,  
14 you need to foot the bill for that transport and  
15 establish a POI, you know, in the local calling area of  
16 their service area.

17 Q Which establishing a POI in the local calling -- or  
18 each local calling service area doesn't require a  
19 direct interconnect as was evidenced by the James  
20 Valley agreement this morning, does it?

21 A It is a direct interconnect.

22 Q Well, you don't have to put a point of interconnect  
23 from Western Wireless to every one of the end offices,  
24 do you?

25 A What they have is they have a direct interconnection



1 into their local service area from a location where  
 2 Western Wireless said, okay, if you -- if we establish  
 3 the facility from point A to point B and we'll worry  
 4 about taking it to point B to wherever you need to take  
 5 it, that's an acceptable solution. However --  
 6 **Q** Just so I understand -- I don't mean to interrupt but  
 7 you say we say we'll take it from there. What you're  
 8 saying --  
 9 **A** Western Wireless will take it from point B to wherever  
 10 their MTSO is. Because I believe that the way that  
 11 works is that Western Wireless has some facilities  
 12 apparently that are somewhere in the neighborhood of  
 13 Aberdeen and the negotiated facilities that you had  
 14 with James Valley is taking it from wherever that  
 15 location is to a POI within their local service area in  
 16 Groton. You're paying them a monthly lease on that  
 17 facility, and then once -- you know, once the traffic  
 18 hits wherever that location of yours is in Aberdeen,  
 19 you at your own expenses are transporting it to  
 20 wherever it is that you transport it on your own  
 21 facilities.  
 22 **Q** Sounds like you talked to some people during the break  
 23 to try to get some more details on that; is that  
 24 correct, during the last break?  
 25 **A** I haven't talked to anybody about that over the last

1 break.  
 2 **Q** Okay. But that can be done at a fraction of the cost  
 3 of what you've proposed for your install costs;  
 4 correct?  
 5 **A** That --  
 6 **Q** Is that correct?  
 7 **A** That would reduce the cost because the cost of the  
 8 transport I was assuming was a minimum of wherever they  
 9 were at to Sioux Falls but if there's a closer location  
 10 then yes, that reduces the cost because you don't have  
 11 as many air-line miles to deal with.  
 12 **Q** Let me ask it this way then: If this Commission orders  
 13 these companies to become LNP compliant within 30 days,  
 14 just hypothetical, would you advise your clients to  
 15 proceed to put in a system as represented in your  
 16 Exhibit 3A with those expenses, or would you advise  
 17 them to ask for renegotiation with their contracts with  
 18 Western Wireless?  
 19 **A** I guess that I don't know how to advise them without  
 20 finding out if Western Wireless is willing to make the  
 21 same type of deal that they've made with James Valley  
 22 to all comers. I don't know if that's a special case.  
 23 I don't know if that's a model. I don't know what the  
 24 answer to that is.  
 25 **Q** And you don't know that because none of the companies

1 you're representing have approached Western Wireless  
 2 with the exception of James Valley to talk to them?  
 3 **A** Nor has Western Wireless approached any of the  
 4 companies with that particular solution.  
 5 **Q** I'll take you back again. You were here yesterday when  
 6 Mr. Heiberger discussed he was contacted by Western  
 7 Wireless in two different letters as overtures to  
 8 discuss LNP; correct?  
 9 **A** I haven't read the letters, but --  
 10 **Q** I'm just asking you about how the testimony went  
 11 yesterday. I'm not asking whether you read the  
 12 letters.  
 13 **A** I believe that that is correct.  
 14 **Q** Do you do any work with your clients on USAC numbers?  
 15 **A** Not personally, no.  
 16 **Q** Okay. So do you know on the USAC reports when your  
 17 clients report them if they do these LNP and switch  
 18 upgrades, do you know whether that would be included in  
 19 the cost information given to USAC?  
 20 **A** I have absolutely no idea.  
 21 **Q** Okay. Phantom traffic has to do with terminating  
 22 traffic, doesn't it?  
 23 MS. SISAK: Excuse me. I have an  
 24 objection here. It's my understanding these  
 25 questions are limited to my redirect and I did not

1 go down that avenue.  
 2 MR. SMITH: I'm sorry, Talbot could  
 3 you repeat the question.  
 4 MR. WIECZOREK: The question was,  
 5 there was questions by Rolayne I believe on phantom  
 6 traffic and so I was asking a follow-up on that.  
 7 MR. SMITH: Yes. I think he can --  
 8 well, ordinarily -- I'll let you ask it.  
 9 MR. WIECZOREK: I'll keep it short.  
 10 MR. SMITH: The other parties  
 11 cross-examining are not identified with Western  
 12 Wireless.  
 13 **Q** Phantom traffic has to do with terminating traffic;  
 14 correct?  
 15 **A** Correct.  
 16 **Q** And you used, and I'm not sure it was a direct example,  
 17 but you talked about a million minutes. Was that just  
 18 a ballpark or related to a company?  
 19 **A** That was so I could do easy math.  
 20 **Q** You and I are on the same wavelength there. So if you  
 21 have 200,000 minutes phantom, what's that cost a  
 22 minute? Do you know?  
 23 **A** I don't know.  
 24 **Q** Okay. Just so I'm clear on this because there's some  
 25 questions on the recurring costs. On the recurring

1 costs I think there's a question on James Valley  
 2 recurring costs and you said something to the effect  
 3 that recurring costs could be impacted by another  
 4 cellular company approaching them.  
 5 Do you remember saying that? Am I  
 6 summarizing your testimony correctly?  
 7 A Are we talking about -- I guess, in what context?  
 8 Q I think the example was given of James Valley and there  
 9 was a question as to would these recurring costs be the  
 10 same and, as I recall, the reference to your Exhibit 3A  
 11 but the recurring costs still -- those SOA costs,  
 12 everything else -- let me back up. May be easier to  
 13 ask it this way.  
 14 All the recurring costs you've got for SOA,  
 15 translation, those kinds of costs, you came up with  
 16 those numbers based on an assumption that like in  
 17 Interstate's situation, all six wireless companies,  
 18 that would be enough to cover all six wireless  
 19 companies in your hypothetical; correct?  
 20 A Correct.  
 21 Q So let's go to James Valley. All the recurring costs,  
 22 SOA, those types of marketing flyer costs, those costs  
 23 assume -- I believe in that case there would be five  
 24 cellular companies that would be coming to them.  
 25 A Except things like marketing flyer costs were not

1 driven by number of carriers.  
 2 Q Right.  
 3 A It was, you know, what's this end-user charge.  
 4 Q Right. I guess what I'm getting at is the numbers you  
 5 gave as recurring costs are essentially assume BFRs  
 6 from five companies in the case of James Valley, six  
 7 companies in the case of Interstate.  
 8 A I guess that we'd need to look at which recurring  
 9 charges we're talking about. I think that the answer  
 10 to your question is the recurring charges that are  
 11 driven by the number of ports are -- our port number is  
 12 independent of how many carriers there are. If there  
 13 are two ports a month, I don't know which carriers are  
 14 actually doing the port but the two ports are taken  
 15 times the appropriate factors to come up with the  
 16 recurring charges on the ones that are driven by ports.  
 17 Q Okay.  
 18 MR. WIECZOREK: That's all I have.  
 19 RE CROSS-EXAMINATION  
 20 BY MR. GERDES:  
 21 Q Very briefly, Mr. DeWitte. Ms. Sisak asked you about  
 22 transport costs on Exhibit 1A and I just want to cover  
 23 a couple of points.  
 24 Your figures on Exhibit 1A contemplate that  
 25 Midcontinent would have a point of interface in the

1 Webster exchange; correct?  
 2 A Correct.  
 3 Q So the only transport costs we're talking about are  
 4 local transport; correct?  
 5 A That is correct.  
 6 Q And the local transport is covered in the  
 7 Interconnection Agreement which is in evidence as  
 8 Exhibit 3; correct?  
 9 A I guess it's in evidence. I have not read the  
 10 Interconnection Agreement.  
 11 Q Okay. But typically it would be in the Interconnection  
 12 Agreement; correct? You testified to that?  
 13 A I testified I hadn't read it.  
 14 Q In response to your questions I believe you said the  
 15 transport costs would be covered in the Interconnection  
 16 Agreement?  
 17 A Are typically covered in the Interconnection  
 18 Agreements. I haven't read that so I don't know if it  
 19 is or not.  
 20 MS. SISK: Excuse me. Point of  
 21 clarification, what is exhibit -- Exhibit 3, I  
 22 believe, is Mr. DeWitte's testimony.  
 23 MR. GERDES: Excuse me. Midco  
 24 Exhibit 3 is the Interconnection Agreement between  
 25 the two parties.

1 MS. POLLMAN ROGERS: That was not  
 2 offered --  
 3 MR. GERDES: That's in the other  
 4 Docket.  
 5 MS. SISK: I would move to strike  
 6 all questions and answers concerning Midco Exhibit  
 7 3.  
 8 MR. GERDES: That's fine. Let me  
 9 just ask one question.  
 10 MR. SMITH: Are you withdrawing it?  
 11 MR. GERDES: I'll withdraw the part  
 12 about Exhibit 3.  
 13 MR. SMITH: You didn't actually  
 14 mention anything about it so I don't know that it  
 15 matters. Go ahead.  
 16 Q Again, your last answer I think is what I was getting  
 17 at, and that is that typically the transport costs  
 18 would be provided for in the Interconnection Agreement  
 19 between the parties; correct?  
 20 A Typically, yes.  
 21 Q Where there is a point of interface in the exchange,  
 22 the only transport that needs to be covered would be  
 23 local transport?  
 24 A That is correct.  
 25 MR. GERDES: Thank you.

1 MR. SMITH: Ms. Wiest?  
 2 MS. WIEST: Nothing.  
 3 MR. SMITH: Commissioners, anything  
 4 else?  
 5 (No audible response)  
 6 MR. SMITH: You may step down.  
 7 THE WITNESS: Thank you very much  
 8 for your time.  
 9 (Discussion off the record)  
 10 (A short recess is taken)  
 11 MR. SMITH: We're back on the  
 12 record. We're going to take a witness somewhat out  
 13 of order. I guess that's up to the Petitioners to  
 14 decide but in order to accommodate Mr. Adkins we've  
 15 agreed to allow him to be called out of order and  
 16 with that it's either Ms. Sisak or Ms. Smith over  
 17 here who will -- you may proceed with your  
 18 examination.  
 19 MS. SISAK: Mr. Adkins, if you  
 20 would take the witness stand. Thank you.  
 21 (Exhibits Brookings 1 and 2 are marked for identification)  
 22 W. JAMES ADKINS,  
 23 called as a witness, being first duly sworn in the  
 24 above cause, testified under oath as follows:  
 25

1 DIRECT EXAMINATION  
 2 BY MS. SISAK:  
 3 **Q** Mr. Adkins, can you please state your name and address  
 4 for the record.  
 5 **A** My name is W. James Adkins, Brookings, South Dakota.  
 6 **Q** Can you please look at Brookings Exhibits 1 and 2 which  
 7 are before you.  
 8 **A** Okay. I see them.  
 9 **Q** Would you please review them and indicate whether or  
 10 not that is your prefiled direct testimony marked as  
 11 Brookings Exhibit 1 and your rebuttal testimony marked  
 12 as Brookings Exhibit 2.  
 13 (Witness examines documents)  
 14 **A** That's correct.  
 15 **Q** Did you prepare both the direct and rebuttal testimony?  
 16 **A** Yes.  
 17 **Q** Do you have any additions or corrections at this time  
 18 to either one of those exhibits?  
 19 **A** Just a couple of additions. One of the points that we  
 20 made in here was that we had not received any requests  
 21 for local number portability and I'd just like to  
 22 update in that as of today we have received two  
 23 inquiries on local number portability for intermodal  
 24 and also just want to point out in Exhibit 1 just a  
 25 drawing error there, we were showing the CMRS carrier

1 making a direct connection to SDN and I think more  
 2 typically they would make a direct connection to Qwest.  
 3 MR. WIECZOREK: The Exhibit 1 is  
 4 rebuttal testimony; correct?  
 5 THE WITNESS: That's correct.  
 6 MR. WIECZOREK: I apologize, could  
 7 you give me that change one more time on the  
 8 exhibit.  
 9 THE WITNESS: Exhibit 1?  
 10 MR. WIECZOREK: Yes.  
 11 THE WITNESS: CMRS carriers more  
 12 likely connect to Qwest, if we're talking specific  
 13 routing.  
 14 **Q** If I were to ask you the questions that are in your  
 15 direct and rebuttal testimony today, would your answers  
 16 be the same?  
 17 **A** Yes.  
 18 **Q** Other than the one correction that you made to your, I  
 19 believe, direct testimony?  
 20 **A** Yes.  
 21 **Q** And can you please briefly summarize your testimony.  
 22 **A** Swiftel Communications has received the bona fide  
 23 request from Western Wireless and Verizon subsequent to  
 24 the FCC Order and as a result of that we've  
 25 investigated the option or the possibility of providing

1 local number portability. After reviewing the  
 2 information with our consultants, our internal staff  
 3 and having discussions with our utility board --  
 4 And I should mention that we are governed  
 5 by -- I work for the City of Brookings Municipal  
 6 Utilities Telephone Department, which is a handful, and  
 7 that's why we go by doing business as Swiftel  
 8 Communications and just generally just use the name  
 9 Swiftel. It's a lot easier to communicate that way.  
 10 But, in any event, we are governed by a local  
 11 appointed regulatory board of the citizens of Brookings  
 12 and the customers of our network, and in preparing the  
 13 information relative to local number portability we  
 14 presented that to our utility board and discussed it  
 15 with them. We're looking at the \$300,000-plus capital  
 16 figure in terms of implementing local number  
 17 portability. We were evaluating the routing issues and  
 18 the inequities there, the lack of determination of how  
 19 the rate centers and routing would work. And so we  
 20 have the issue of cost.  
 21 We have also the issue of benefit of that  
 22 cost going back to that \$300,000. We were not aware of  
 23 any interest or any pent up demand for local number  
 24 portability. So our board looked at that and was  
 25 concerned about that issue.

1 We were also concerned that there was only an  
2 opportunity for us to port numbers from our wireline  
3 company to wireless but not the reciprocal. So we  
4 could only stand to lose customers. And so with those  
5 issues being unresolved and then looking at the impact  
6 of the cost and how that would be allocated we were  
7 looking at the cost-causer being the one who avoids the  
8 cost in this case. I mean, typically telephone  
9 companies have operated on the cost-causer is the  
10 cause-payer and as it relates to LNP we've got the  
11 cost-causer is the one who escapes. He's the one who's  
12 leaving your network and leaves the remaining customers  
13 having to pay the bill.

14 So our board evaluated all of that  
15 information and when we looked at offering local number  
16 portability they determined that that was not in our  
17 interest of the City of Brookings and directed staff  
18 then to seek a suspension modification of the rules  
19 until such time as several of these troubling issues  
20 were resolved. And so that's why we're here today.

21 MS. SISAK: At this time I'd like  
22 to offer Brookings Exhibits 1 and 2 into evidence.

23 MR. WIECZOREK: I have no objection.

24 MS. WIEST: No objection.

25 MR. SMITH: Brookings Exhibits 1 and

1 2 are admitted.

2 MS. SISAK: The witness is ready  
3 for cross-examination.

4 MR. SMITH: Mr. Coit.

5 MR. COIT: Yes. I do have just a  
6 couple of questions. Thank you.

7 CROSS-EXAMINATION

8 BY MR. COIT:

9 Q Mr. Adkins, Swiftel or Brookings Municipal Utilities,  
10 has your company entered into an Interconnection  
11 Agreement, reciprocal interconnection and transport and  
12 termination agreement with Western Wireless?

13 A Yes, we have.

14 Q And has that agreement been filed with the Commission?

15 A Yes. It's been recently filed with the Commission.

16 Q Do you know whether or not that agreement has recently  
17 been approved or is it still pending?

18 A I believe it has been approved recently.

19 Q I would just ask would you have any objections to the  
20 Commission taking judicial notice of that agreement for  
21 the purposes of this proceeding?

22 MR. COIT: Does anybody have any  
23 objections to that?

24 THE WITNESS: I wouldn't have any  
25 objections to that.

1 MS. SISAK: No objection.

2 MR. COIT: I would ask for the  
3 purposes of this proceeding the Commission take  
4 judicial notice of that agreement. I can't recall  
5 the Docket number. I don't have that with me  
6 currently.

7 MR. WIECZOREK: I have no  
8 objections, but if it's going to be quoted from, if  
9 we could get copies distributed, I'd ask that.

10 MR. COIT: I'm finished.

11 MR. SMITH: Are there any other  
12 objections to the taking of judicial notice of a  
13 document that's on file with the Commission?

14 MS. WIEST: I don't.

15 MR. WIECZOREK: I think the  
16 Commission can take judicial notice of the  
17 documents on their file and in Minnesota too.

18 MR. SMITH: Hearing no objection,  
19 we'll take judicial notice of the transport and  
20 termination agreement.

21 Please proceed.

22 MR. WIECZOREK: Thank you.

23 CROSS-EXAMINATION

24 BY MR. WIECZOREK:

25 Q You're going to have to bear with me, Mr. Adkins. If I

1 refer to you as Interstate, please correct me, if  
2 that's all right.

3 Just ask some general questions. It's my  
4 understanding that Swiftel actually operates a wireless  
5 affiliate?

6 A That is correct.

7 Q Okay. Were you sent BFRs to any other areas on behalf  
8 of your wireless affiliate?

9 A For intermodal portability?

10 Q Yes.

11 A No.

12 Q Your wireless affiliate's LNP capable; is that correct?

13 A The wireless affiliate is.

14 Q Has Swiftel ported numbers between Swiftel, the  
15 wireless affiliate, and any other cell companies since  
16 its being LNP compliant?

17 A Yes. Swiftel has ported -- Swiftel PCS has ported  
18 numbers to other carriers, yes.

19 Q Okay. Your wireless operation, do you -- well, I want  
20 to make sure I refer to this correctly. Your wireless  
21 operation, your landline operation is that the best way  
22 to distinguish between the two?

23 A That's fine.

24 Q Okay. Does your two affiliations, the wireless and  
25 wireline, share network equipment or facilities or

1 personnel?  
 2 **A** They do share personnel. They're housed in the same  
 3 central office, but they're two independent switching  
 4 networks.  
 5 **Q** Okay. So you don't share equipment?  
 6 **A** No.  
 7 **Q** Okay. Has your wireless affiliate requested your  
 8 wireline portion of your company become LNP capable?  
 9 **A** No.  
 10 **Q** Are there any plans for that?  
 11 **A** No.  
 12 **Q** Do you have an interconnection -- as Mr. Coit pointed  
 13 out, you have an Interconnection Agreement with Western  
 14 Wireless; correct?  
 15 **A** On the wireline side?  
 16 **Q** Yes.  
 17 **A** Yes.  
 18 **Q** And, in fact, that agreement allows Western Wireless to  
 19 terminate traffic to Brookings using a tandem trunk  
 20 group?  
 21 **A** I'd have to review that. It's been a while since I  
 22 reviewed that.  
 23 **Q** And I'm not trying to trip you up. Who negotiated that  
 24 agreement for you?  
 25 **A** The agreement was negotiated through SDTA.

1 **Q** Okay. So and since we're taking judicial notice of it,  
 2 the Commission could actually look at that document to  
 3 determine that the agreement allows Western Wireless to  
 4 terminate traffic in Brookings via a tandem trunk  
 5 group?  
 6 MS. SISAK: Objection. I believe  
 7 that question was already answered by the witness.  
 8 MR. WIECZOREK: No. I believe I  
 9 asked if the Commission could look and make that  
 10 determination looking at the document now since he  
 11 didn't know.  
 12 MS. SISAK: You're asking the  
 13 witness to opine on that?  
 14 MR. SMITH: Are you just asking him  
 15 is the answer to the question in the document?  
 16 **Q** Do you know if the answer to the question is in the  
 17 document?  
 18 **A** I believe it is, yes.  
 19 **Q** Okay. Have you talked to Western Wireless about  
 20 allowing Swiftel to route traffic to numbers ported to  
 21 Western Wireless via a tandem connection?  
 22 **A** Okay. Let me be clear when you say Swiftel.  
 23 **Q** I'm sorry.  
 24 MS. ROGERS: Swiftel the cellular  
 25 company.

1 **A** Okay. Restate in terms of the PCS --  
 2 **Q** The cellular portion of your company.  
 3 **A** If you'd restate the question, please, in light of  
 4 the --  
 5 **Q** Just restate the question. Have you talked to Western  
 6 Wireless about allowing your cellular portion of your  
 7 company or the PCS portion of your company to route  
 8 traffic to numbers ported to Western via tandem  
 9 connection?  
 10 **A** I don't believe we've discussed that with Western  
 11 Wireless.  
 12 **Q** Okay. You stated one of the reasons you filed this  
 13 suspension is the fact you met with your board and you  
 14 wanted some things reconciled, and one of the things  
 15 that you pointed out was the ability to port from  
 16 wireline to wireless one way. Do you remember stating  
 17 that?  
 18 **A** The ability to port from wireless to wireline.  
 19 **Q** I'm sorry.  
 20 **A** That was a deficiency in the order that we thought was  
 21 inequitable. It was a point of concern.  
 22 **Q** That's part of the FCC's Order. It hasn't provided for  
 23 porting from wireless to wireline; correct?  
 24 **A** That's correct.  
 25 **Q** And you don't like that. You don't think it's fair.

1 **A** Well, certainly we would like the opportunity to be  
 2 able to gain customers in a similar fashion as it  
 3 relates to our wireline operation being able to and  
 4 gain customers from wireless carriers if that was  
 5 possible.  
 6 **Q** Okay. Is it your testimony to this Commission that you  
 7 should receive a suspension until wireless companies  
 8 are required to port back to wireline companies?  
 9 **A** No. I think it's my position that there are several  
 10 issues that are outstanding. Some of those issues are  
 11 cost-related issues. Some of those are routing-related  
 12 issues. There are some issues that we -- as you  
 13 referred to the wireless to wireline that we may have  
 14 preferred was ruled in another manner. But several we  
 15 would not be in a position to think that local number  
 16 portability should be held up for every issue in that  
 17 one.  
 18 **Q** All right. In fact, your petition talks about six  
 19 months from when the FCC rules are final, but it  
 20 doesn't define what final is. I mean, are you  
 21 expecting it to go to the whole appeals process, go to  
 22 the Supreme Court, come back down? When does it stop?  
 23 **A** Yeah. I don't have an answer for that because I'm not  
 24 familiar with what might happen. It seems to me  
 25 that -- are you asking a hypothetical here?

1 Q That's what your petition asks for relief. It asks for  
2 six months when all the rules are decided I believe the  
3 language is. But it doesn't talk about when that is.  
4 I mean, do you want to appeal it all the way to the  
5 U.S. Supreme Court? Would you have this Commission  
6 wait until it goes to the U.S. Supreme Court, comes  
7 back down to the FCC if possible?  
8 A I think when the ruling is final as it relates to the  
9 FCC -- I have no knowledge of what somebody might do in  
10 terms of appealing their ruling. Certainly that's not  
11 something that we are contemplating is appealing an FCC  
12 ruling.  
13 Q So if the FCC ruling was final on -- is there a pending  
14 Docket number with the FCC you're tying this to? I  
15 mean, let me back up. You understand that there's  
16 constantly decisions and clarifications being sought  
17 from the FCC.  
18 A Correct.  
19 Q Well, when you ask for relief that's tied to final  
20 decision-making, what decisions are you talking about  
21 and what constitutes final?  
22 A Well, the issues that are more troubling to us are the  
23 routing and the -- the routing issues of the calls and  
24 the rate center issues relative to wireline and  
25 wireless. And if those issues were addressed as it

1 relates to South Dakota or some direction that we might  
2 receive from the Commission so that the carriers could  
3 be approached on a level playing field or a similar  
4 basis, I think that would be helpful for us.  
5 Q You understand -- how long have you been in the  
6 business, the telecommunications business?  
7 A Oh, probably about 25 years.  
8 Q Okay. So when did you first come to hear about local  
9 number portability as being a requirement that your  
10 company would have to face?  
11 A Well, we heard about local number portability with the  
12 Telecommunications Act, but we also recognize that in  
13 the intervening time that we had the FCC implementation  
14 questions that ensued and as it related to intermodal  
15 local number portability, frankly that came as a bit of  
16 a surprise in terms of the extent of which the FCC  
17 ordered it. It did catch us by surprise a bit.  
18 Q Yeah. There's been some testimony by Mr. DeWitte that  
19 there wasn't time to do an analysis of how to actually  
20 deal with local number portability, and so you guys had  
21 to come here to the Commission and ask for this  
22 extension.  
23 A Uh-huh.  
24 Q Nothing prevented you from starting to look at local  
25 number portability before the November 10 decision of

1 last year of the FCC, was there?  
2 A Well, we would have had to speculate on several  
3 scenarios. And not knowing how the Commission might  
4 rule, there could have been another delay. We could  
5 have spent a good deal of time working on  
6 hypotheticals. It really wasn't appropriate for us to  
7 invest the time and the effort and the research until  
8 such time as the FCC Order was finalized.  
9 Q Well, Mr. DeWitte, when he was testifying on behalf of  
10 your company earlier today or all of the people he's  
11 testifying on behalf of, talked at length about  
12 the great -- and these are my terms, but I think I'm  
13 going to summarize his testimony -- the vision you guys  
14 have and how you plan ahead and make things happen. So  
15 are you telling the Commission --  
16 MS. SISAK: Is there a question?  
17 MR. WIECZOREK: I'm trying to  
18 complete it, if I could be allowed to complete it.  
19 MR. SMITH: Please do.  
20 Q But you're telling this Commission that you decided not  
21 to plan ahead on these issues, given an absolute drop  
22 dead date of the November 10, 2003 issue -- or, excuse  
23 me, FCC decision?  
24 A No. I don't think that's what we're telling the  
25 Commission. What we are saying to the Commission is

1 that we didn't have the information, we didn't have the  
2 Order from the FCC, we didn't have the necessary facts  
3 for us to go through the analysis. And there wasn't a  
4 timeline involved in terms of when the FCC might rule.  
5 There were several pending issues. They could have  
6 been delayed, could have been appealed.  
7 Q So you waited for the FCC to enter their rule on  
8 November 10?  
9 A Correct.  
10 Q And then there wasn't time.  
11 A Well, there was not time to go through the entire  
12 process, go through all the analysis and meet the May  
13 24 deadline, that's true.  
14 Q You've been in the room today when Mr. DeWitte  
15 testified, weren't you?  
16 A Yes. I was here part of the time.  
17 Q Okay. There was quite a bit of discussion on some of  
18 the different costs and who came up with the plan for  
19 how to route traffic. Did you do an analysis -- did  
20 Brookings do an analysis of any alternative routing  
21 options?  
22 A We did the analysis based upon the existing  
23 architecture, the existing routing, and had that  
24 analysis done by Mr. DeWitte and his firm.  
25 Q Okay. And did you -- have you read Mr. DeWitte's

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1        prefiled testimony?

2    **A**    No. Actually I have not, not recently.

3    **Q**    Okay. Well, then I'll keep questions limited to the

4        examination, what was discussed in his examination. He

5        talked about there are various other options for

6        routing traffic; correct?

7    **A**    Uh-huh.

8    **Q**    You have to say yes.

9    **A**    Yes. There are other options to route traffic.

10        There's numerous options that one might employ.

11   **Q**    And you didn't investigate any of the other options but

12        the one that Mr. DeWitte did his cost analysis on;

13        correct?

14   **A**    We did the analysis based upon the current routing and

15        interconnection arrangements and contractual

16        arrangements that we had in place.

17   **Q**    Yeah. But you didn't do the analysis on the existing

18        facilities, you agree that your current analysis is

19        based on adding new facilities and point of

20        interconnections?

21   **A**    Yes.

22   **Q**    Okay. Do you do your USAC filings for your company?

23   **A**    No, I do not.

24   **Q**    You have a Complaint in your prefiled testimony. You

25        talk about Western Wireless has a larger calling area,

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1        do you recall that, than Brookings?

2    **A**    That's the very nature of wireless and that when we

3        look at the city of Brookings it covers a relatively

4        small geographic area and it's just the very nature of

5        wireless that if you have a tower or two in the general

6        vicinity your footprint's going to be quite a bit

7        larger. And if you look then at the licensed area it's

8        even larger still.

9    **Q**    Okay. You agree with me that could be a benefit to

10        your individual consumers to be able to take their

11        number to a cell phone and obtain a larger calling

12        area?

13   **A**    I agree that mobility for some customers is an

14        important issue and that does afford them that larger

15        calling area.

16   **Q**    And you'd agree that larger calling areas can be a

17        benefit to most consumers?

18   **A**    I think when you look at -- if your question is is

19        comparing the two different modes of

20        telecommunications, the landline service versus the

21        wireless, there are two different service types. I

22        mean, there are --

23   **Q**    I'm just --

24                MR. WIECZOREK: I'm going to ask

25        that the response be stricken. My question was

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1        whether he agreed a larger calling area was a

2        benefit to his consumers. I wasn't asking him to

3        differentiate between the services.

4                MR. SMITH: I'm not going to strike

5        it but would you just address the question,

6        Mr. Adkins, that he's asked.

7    **A**    A benefit to our consumers compared to what, please?

8    **Q**    Larger calling area is more beneficial to the consumer

9        than a small calling area.

10   **A**    Given the equal quality of service, I would think that

11        that would be true.

12   **Q**    Okay. I'm a State grad. When I went to State I got my

13        phone number and I think the ability to spend two years

14        in the dorm, for those kids going to State and being

15        able to port their number out and use a cell phone

16        would be a benefit to them.

17   **A**    It's interesting that you bring up that example because

18        what we have experienced over the last three years is

19        that our students in the residence halls have availed

20        themselves of that opportunity to migrate from

21        wireless -- from wireline rather to wireless. And as a

22        result we have -- our access line count has gone down

23        approximately 1,200 phone lines.

24   **Q**    Yeah. So what you're saying is those college students

25        are opting for cellphones as opposed to your landlines

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1        coming into the dorms if I follow your statement

2        correctly?

3    **A**    Well, I think the point here is that is twofold. One,

4        the students as they travel to state universities

5        oftentimes are given a wireless phone by their parents

6        for safety and security reasons and so that they can

7        call them from their home. But additionally I think it

8        also illustrates that what we have is we have pretty

9        fair competition without local number portability.

10   **Q**    Uh-huh. And you would agree that the local number

11        portability with wireline to wireless would even help

12        raise that level of competition, make it a more even

13        playing field between cellular and your landlines?

14   **A**    Well, as you look at the advantage of local number

15        portability from a wireline to a wireless and the

16        quantity of ports you may have in that regard, in an

17        environment where competition is being served, the

18        customers are, in fact, migrating as they desire from

19        wireline to wireless. There are some customers we have

20        in Brookings that don't have a wireline phone. They

21        strictly operate on a wireless phone.

22                And so to say that they would be advantaged,

23        when you look at the cost to provide that small

24        advantage, it certainly doesn't seem to -- it certainly

25        doesn't seem to pass muster on the cost benefit ratio.

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1 Q When you talk about the cost benefit ratios, you're  
2 talking about Mr. DeWitte's cost; correct?  
3 A Well, I'm just using a general term, but, yes, I'm  
4 relating to his costs.  
5 Q In Mr. DeWitte's testimony there were some questions on  
6 the LNP cost per line he had been throwing around and  
7 he represented he did not know whether that would be an  
8 actual line cost going out to each of your consumers.  
9 Are you representing to this Commission that  
10 that's the actual line cost that's going to be billed  
11 out to your wireline users?  
12 A Well, I can't make that representation because we  
13 haven't filed our costs with NECA. I mean, we have to  
14 go through that process to determine what would  
15 actually be billed to our end-users.  
16 Q You have some concern -- in your testimony you talk  
17 about the investment LNP might result in you not being  
18 able to roll out broadband services as quickly as you'd  
19 like. Do you recall that?  
20 A Yes, I do.  
21 Q You understand that there is the ability to recoup your  
22 investment -- excuse me. Let me ask it this way.  
23 Congress has provided a mechanism for you to do a line  
24 charge to recoup your investment in LNP; correct?  
25 A Yes. I understand that could be true.

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1 Q You'd be charging customers for any broadband service  
2 too; right?  
3 A When you look at the cost of local number portability  
4 and we would pull the capital cost out of our system --  
5 MR. WIECZOREK: I'm going to object  
6 as nonresponsive. All I asked him is whether he  
7 was going to charge for broadband service.  
8 MR. SMITH: Sustained.  
9 Q Are you going to charge for broadband service?  
10 A Yes, we will.  
11 (Exhibit WWC 7 is marked for identification)  
12 Q You've noted in your testimony that you received a BFR  
13 from Western Wireless. Did you review that letter?  
14 A Yes, I did.  
15 Q Okay. I'm showing you what has been marked as Exhibit  
16 No. 7, Western Wireless Exhibit No. 7. Is that a copy  
17 of that letter?  
18 A It appears to be.  
19 Q Yeah.  
20 MR. WIECZOREK: I guess I'd move 7  
21 for admission at this time.  
22 MR. SMITH: Any objection?  
23 MR. COIT: No objection.  
24 MS. SISK: No objection.  
25 MS. WIEST: No objection.

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1 MR. SMITH: Western Wireless 7 is  
2 admitted.  
3 Q After you received this BFR did you or anybody on  
4 behalf of Swiftel Communications contact Western  
5 Wireless to try to deal with what you saw as routing  
6 issues and cost issues of providing LNP?  
7 A No, I did not respond to this BFR.  
8 Q So during that investigation after the November 10  
9 decision of the FCC, you didn't feel it necessary to  
10 contact the cellular companies that might want to port  
11 numbers to see if they could assist you in some of that  
12 research?  
13 A I did not contact the cellular companies as it related  
14 to their BFRs simply because we had no obligation to do  
15 so, and secondly, we were researching the subject  
16 matter as it related to the FCC ruling and we're not in  
17 a position to discuss much with -- if anything, with  
18 the wireless carriers.  
19 Q And maybe you already talked about this. You agreed  
20 there's other ways to route ported traffic?  
21 A I think there are many different ways to route traffic.  
22 What I would like to see, however, is that there be  
23 some guidance so as we relate to dealing with the  
24 multiple wireless carriers that we don't have to  
25 negotiate in our instance three different arrangements

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1 for routing ported numbers. I'd like to see there be  
2 some direction or some guidelines so that we can move  
3 forward with some similarity, some formality.  
4 Q When you say -- you're not restricting that to just the  
5 FCC, the decision on the FCC, are you? Let me ask you  
6 this way. Kind of unfair, long day. If this  
7 Commission granted some guidance that's the kind of  
8 guidance you'd be looking for?  
9 A I think that's very appropriate. This Commission  
10 understands the issues in South Dakota. They  
11 understand the various communities that we have, the  
12 sizes of towns, East River, West River and I think  
13 they're in a great position to provide guidance on that  
14 for us carriers.  
15 Q There's been some discussion about a Minnesota filing  
16 by I believe it's Minnesota Independent Coalition. Are  
17 you familiar with that group?  
18 A I have heard the acronym before.  
19 Q Okay. Are you familiar with what they're doing in  
20 Minnesota or proposing as routing options in Minnesota?  
21 A No, I am not.  
22 Q Have you done any studies either internally or through  
23 hiring an independent group as to what the demand is in  
24 Brookings for local number portability?  
25 A No. We have not studied LNP demand for local number



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1 portability.  
 2 **Q** Okay. Have you accumulated any demographic information  
 3 on what costs your customers may be able to bear in  
 4 providing local number portability -- or excuse me.  
 5 Let me back up. Have you provided any demographic --  
 6 well, let me ask it this way. Cut right to it.  
 7 You are not presenting any demographic  
 8 information on the average income of your customers in  
 9 this proceeding, are you?  
 10 **A** No, we are not.  
 11 **Q** Okay.  
 12 MR. WIECZOREK: That's all I have.  
 13 MR. SMITH: Ms. Wiest.  
 14 MS. WIEST: Thank you.  
 15 CROSS-EXAMINATION  
 16 BY MS. WIEST:  
 17 **Q** Mr. Adkins, what is your current local rate?  
 18 **A** Current local rate for residential customers is \$14,  
 19 business 23.  
 20 **Q** Brookings has one type 2-B connection with Sprint?  
 21 **A** Yes.  
 22 **Q** You corrected your testimony or updated and stated you  
 23 have two inquiries for intermodal LNP from subscribers?  
 24 **A** That's correct.  
 25 **Q** Are your employees instructed to keep track of

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1 inquiries or requests?  
 2 **A** I asked them to keep me apprised of any requests we  
 3 had.  
 4 **Q** If you could go to your direct testimony, on page 5 and  
 5 line 21 you talk about substantial cost savings to be  
 6 realized by not deploying during early phases of  
 7 introduction. Do you see that?  
 8 **A** Yes, I do.  
 9 **Q** I believe earlier you stated that you first learned of  
 10 LNP in 1996. Hasn't LNP been around for a while?  
 11 **A** Well, LNP in the 1996 Act was when Congress  
 12 indicated -- first gave the overtures towards local  
 13 number portability but they did not address anything in  
 14 terms of how it was to be implemented but left that to  
 15 the FCC.  
 16 **Q** Hasn't LNP software and hardware been around for a  
 17 number of years?  
 18 **A** I'm sure that it has.  
 19 **Q** So today do you have an estimate as to what would be  
 20 any end-user surcharge if Swiftel was to implement LNP?  
 21 **A** Do I have any indication what the surcharge is for LNP?  
 22 **Q** Yes.  
 23 **A** Mr. DeWitte's study indicated that -- and I think the  
 24 revised study was 74 cents without transport and a  
 25 dollar with.

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1 **Q** Did you understand me to say that he stated that he did  
 2 not calculate an end-user surcharge, he just calculated  
 3 possible costs?  
 4 **A** Oh, I'm sorry. Yes. He calculated possible costs. It  
 5 was an estimate.  
 6 **Q** So today do you have any estimate? Do you have any  
 7 estimate as to what an end-user surcharge would be to  
 8 your customers?  
 9 **A** I'm sorry. I wasn't following your question. I  
 10 apologize. No. We have not gone through the filing  
 11 with NECA to determine what the surcharges might be and  
 12 what rate elements might be incorporated into it. I  
 13 don't have that information.  
 14 **Q** If you go to your rebuttal on line 12 you state that,  
 15 "Pursuant to the Interconnection Agreement ITC did not  
 16 agree to route traffic destined for Western Wireless to  
 17 the serving tandem."  
 18 **A** Can you direct me to the page number, please.  
 19 **Q** Page 2, line 12.  
 20 **A** Okay. I'm there.  
 21 **Q** Is there any reason why you couldn't agree to do that?  
 22 **A** Well, we have current agreements in place, an  
 23 Interconnection Agreement in place that's been recently  
 24 filed with Western Wireless and had they wished to  
 25 bring up LNP into that agreement, I would think that

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1 they would have addressed it at that point in time.  
 2 But as it relates to us routing over the  
 3 Qwest tandem, that's a question that we have discussed  
 4 several times, and what we would like to do is we  
 5 currently route our traffic over a very common trunk  
 6 route to South Dakota Network, and that is our most  
 7 efficient route.  
 8 **Q** Were you finished?  
 9 **A** Yes, I am.  
 10 **Q** Okay. If you go to page 4, and I believe you referred  
 11 to it as a regulatory arbitrage scenario.  
 12 **A** Yes.  
 13 **Q** How likely do you think that -- if I understand it  
 14 correctly, one of your wireline customers will port his  
 15 number to Western Wireless in order that a different  
 16 ITC landline customer will be able to call the wireless  
 17 number toll-free?  
 18 **A** Well, that certainly is a possibility when you have the  
 19 portability issue. Once we have an LNP customer that  
 20 can relocate to some other location they can utilize  
 21 that to avoid toll. I think in many cases customers  
 22 are using wireless for toll avoidance. And we talked  
 23 earlier about situations where SDSU students coming in  
 24 from other areas are using their wireless phones to  
 25 avoid toll for their parents hypothetically calling

1 them. I think this situation would be very analogous  
2 to that in that our wireline customers would then be  
3 ported over to a wireless arrangement and we would end  
4 up losing toll because of that.

5 MS. WIEST: Thank you, Mr. Adkins.

6 MR. SMITH: Commissioners?

7 COMMISSIONER BURG: I had one. What  
8 are the lengths of the Interconnection Agreements?

9 THE WITNESS: If I recall correctly,  
10 I think the Interconnection Agreement with Western  
11 Wireless is a two-year agreement.

12 MR. COIT: May I correct that for  
13 the record? Or is that appropriate or not? We  
14 took judicial notice of it. I believe they're  
15 actually three years but it's from -- it's from  
16 January 1 of 2003.

17 MR. SMITH: We've received the  
18 agreement into the record so it is what it is but  
19 just to correct Jim's impression, I don't think we  
20 need to correct the record necessarily.

21 MR. COIT: Yes. I just wanted to  
22 make sure the record reflected the right number.

23 MR. SMITH: Are you available for  
24 cross-examination?

25 Do you have another question?

1 COMMISSIONER BURG: No.

2 MR. SMITH: Any redirect?

3 MS. SISAK: Yes.

4 REDIRECT EXAMINATION

5 BY MS. SISAK:

6 **Q** Can you please describe your existing interconnection  
7 facilities with Western Wireless? Do you have any?

8 **A** We do not have any interconnection facilities with  
9 Western Wireless.

10 **Q** What interconnection facilities do you have for the  
11 routing of traffic to wireless carriers?

12 **A** We have one interconnection arrangement with Sprint PCS  
13 or Swiftel PCS and that is all.

14 **Q** How do you route calls today to Western Wireless?

15 **A** Calls today to Western Wireless are routed depending  
16 upon the numbers that are dialed. If calls to Western  
17 Wireless are within our local rate area they are routed  
18 through the EAS trunks that we have to ITC for  
19 termination there. In the event that the Western  
20 Wireless numbers are not within our rate area, then we  
21 route those calls to South Dakota Network to our  
22 interexchange carriers.

23 **Q** Does that mean -- what does that mean in terms of how  
24 end-user customers are charged for calls that they  
25 place to Western Wireless?

1 **A** If the calls -- the end-user would not experience a  
2 charge as it related to a call over the EAS network,  
3 something that was local to our serving territory.  
4 However, they would receive a toll charge for any call  
5 that was routed to SDN to be terminated through an IXC.

6 **Q** And you were asked about -- I guess, the reason why  
7 customers conclude whether one service is better than  
8 another. Is size of the service area the only  
9 consideration in your opinion that a customer would  
10 consider to determine whether one service is better  
11 than another?

12 **A** No. Size and calling scope is not the only issue.  
13 It's interesting that we have -- our marketing group  
14 ends up marketing both the wireline and wireless and  
15 there are distinct advantages and disadvantages for  
16 each type of service. On the wireless side, you have  
17 the portability but you certainly don't have the  
18 quality of service. You have more frequently dropped  
19 calls or blocked calls, coverage issues.

20 On the wireline side, you do have exceptional  
21 quality of service, tremendous reliability. The  
22 wireline telephone system was built for reliability.  
23 Five 9s of reliability has been the industry standard.  
24 We have wanted to build a network such that it would  
25 support E-911 emergency services and highly reliable

1 telecommunications service for our customers.

2 **Q** And I believe you were asked about comparing the  
3 assessment of a charge for your broadband service,  
4 comparing the assessment of an LNP surcharge. How do  
5 you charge and who do you charge for broadband service  
6 as compared to who would you charge or assess the LNP  
7 surcharge?

8 **A** Well, it seems to me that the customers of our  
9 broadband service would pay for that service. And our  
10 customer base would receive the LNP surcharge fees.  
11 And as we relate to the comparison between the costs,  
12 the customers that would purchase broadband services  
13 are buying a commodity and a commodity, rather, that  
14 has a particular value, and they voluntarily subscribe  
15 to that service. As it would relate to an LNP charge,  
16 that's something that would be imposed on them for  
17 something that they may or may not use. It would  
18 become akin to another tax or another add-on to their  
19 local number charges.

20 **Q** And do you have some idea of what the total impact of  
21 those types of surcharges currently are on your  
22 end-users?

23 **A** Well, on our residential customers, residential rates,  
24 \$14. If we add up all of the surcharges, I believe  
25 that's about \$7.20.

1 Q Is that 7.20 before LNP or after LNP?  
2 A That 7.20 would be before LNP.  
3 Q You were also asked about whether you had contacted any  
4 wireless carriers. Have any wireless carriers  
5 contacted you to resolve the high cost of LNP?  
6 A No. We have not had any discussions with other --  
7 Q Any wireless carriers contact you to try to arrange a  
8 cheaper transport solution or a different transport  
9 solution?  
10 A No. We have not had those discussions. We have not  
11 been contacted.  
12 Q And, finally, what is your understanding as to when you  
13 were ordered to provide -- the first date by which you  
14 were ordered to provide wireline-to-wireless  
15 portability by the FCC?  
16 A The first date would be May 24, 2004.  
17 Q I'm sorry. The day that the FCC required that.  
18 A Oh, that would be November 10 of 2003.  
19 MS. SISAK: That's all of my  
20 questions.  
21 MR. SMITH: Rich?  
22 MR. COIT: No questions.  
23 RECROSS-EXAMINATION  
24 BY MR. WIECZOREK:  
25 Q You said there's distinct advantages and disadvantages

1 to cell phone service versus wireline service. Don't  
2 you believe that customers should have the option of  
3 making a decision of whether they think the wireless  
4 service would be a better service and take that number  
5 over from your wireline?  
6 A Well, I believe that the customer should make the  
7 choice whether they want wireless or wireline, and I  
8 believe they are making that choice currently even  
9 without local number portability.  
10 MR. WIECZOREK: I have nothing else.  
11 MR. SMITH: Thank you. Ms. Wiest?  
12 MS. WIEST: No.  
13 MR. SMITH: Commissioners?  
14 CHAIRMAN SAHR: Just give me a  
15 moment.  
16 (Pause)  
17 CHAIRMAN SAHR: No. I have nothing.  
18 MR. SMITH: Thank you, Mr. Adkins.  
19 You may step down.  
20 (Proceedings are in recess)  
21  
22  
23  
24  
25

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THE PUBLIC UTILITIES COMMISSION  
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UTILITIES COMMISSION

Transcript of Proceedings  
VOLUME II  
June 23 & 24, 2004

**ORIGINAL**

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IN THE MATTER OF THE PETITION OF  
KENNEBEC TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-025

IN THE MATTER OF THE PETITION OF  
SANTEL COMMUNICATIONS COOPERATIVE,  
INC. FOR SUSPENSION OF INTERMODAL  
LOCAL NUMBER PORTABILITY OBLIGATIONS TC04-038

IN THE MATTER OF THE PETITION OF  
SIOUX VALLEY TELEPHONE COMPANY FOR  
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47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-044

IN THE MATTER OF THE PETITION OF  
GOLDEN WEST TELECOMMUNICATIONS  
COOPERATIVE, INC., VIVIAN TELEPHONE  
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FOR SUSPENSION OR MODIFICATION OF  
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BRIDGEWATER-CANISTOTA INDEPENDENT  
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47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-046

Reported By Cheri McComsey Wittler, RPR, CRR

**PRECISION REPORTING**  
L I M I T E D

## THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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Transcript of Proceedings  
VOLUME II  
June 23 & 24, 2004

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IN THE MATTER OF THE PETITION OF  
KENNEBEC TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF TC04-025  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

IN THE MATTER OF THE PETITION OF  
SANTEL COMMUNICATIONS COOPERATIVE,  
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LOCAL NUMBER PORTABILITY OBLIGATIONS TC04-038

IN THE MATTER OF THE PETITION OF  
SIOUX VALLEY TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF TC04-044  
47 U.S.C. SECTION 251(B) (2) OF THE  
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IN THE MATTER OF THE PETITION OF  
GOLDEN WEST TELECOMMUNICATIONS  
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IN THE MATTER OF THE PETITION OF  
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TELEPHONE COMPANY AND UNION TELEPHONE  
COMPANY FOR SUSPENSION OR MODIFICATION OF TC04-046  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

Reported By Cheri McComsey Wittler, RPR, CRR

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ALLIANCE COMMUNICATIONS COOPERATIVE, INC.  
AND SPLITROCK PROPERTIES, INC. FOR  
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IN THE MATTER OF THE PETITION OF INTERSTATE  
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SUSPENSION OR MODIFICATION OF TC04-054  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

BEFORE THE PUBLIC UTILITIES COMMISSION,  
ROBERT SAHR, CHAIRMAN  
GARY HANSON, VICE CHAIRMAN  
JIM BURG, COMMISSIONER  
COMMISSION STAFF  
John Smith  
Relayne Ailts Wiest  
Greg Rislov  
Harlan Best  
Keith Senger  
Dave Jacobson  
Michele Farris  
Heather Forney  
Pam Bonrud

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Western Wirelless;

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MAY, ADAM, GERDES & THOMPSON,  
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Pierre, South Dakota 57501,  
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Communications;

J.G. HARRINGTON,  
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Midcontinent Communications;

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RITER, ROGERS, WATTIER & BROWN, LLP,  
Attorneys at Law, 319 South Coteau Street,  
Pierre, South Dakota 57501,  
appearing on behalf of Alliance and  
Splitrock, Armour, Union,  
Bridgewater-Canistota, Beresford, CRST,  
Faith, Golden West, Vivian and Kadoka,  
Interstate, Kennebec, McCook, Midstate,  
Roberts County and RC, Sioux Valley,  
Stockholm-Strandburg, Tri-County, Valley,  
West River, and Western;

APPEARANCES (Continued)					Witnesses	Direct	Cross	Redir	Recross
BENJAMIN H. DICKENS and MARY J. SISAK, BLOOSTON, MORDKOFKY, DICKENS, DUFFY & PRENDERGAST, Attorneys at Law, 2120 L Street, NW, Suite 300, Washington, D.C. 20037, appearing as co-counsel on behalf of Alliance and Splitrock, Armour, Union, Bridgewater-Canistota, Beresford, CRST, Faith, Golden West, Vivian and Kadoka, Interstate, Kennebec, McCook, Midstate, Roberts County and RC, Sioux Valley, Stockholm-Strandburg, Tri-County, Valley, West River, Western, and Brookings;					Mark Benton	967	970,974	976	978
					Todd Hansen	980	983,987	987	--
					Dan Davis	989	995,1011	1015	--
						1037	--	--	--
						1054	1056	--	--
					Pamela Harrington	1043	1045		
							1050	1053	--
					Gene Kroell	1091	1095,1102		
							1104,1118	1115	1118
RICHARD D. COIT, SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION, Attorney at Law, P.O. Box 57, Pierre, South Dakota 57501, appearing on behalf of the South Dakota Telecommunications Association;					WWC Exhibit Nos.		M	O	R
					1 - Testimony of Ron Williams		13	546	549
					2 - 11/18/03 Letter from ITC to Ron Williams		48	52	52
					3 - 11/21/03 Letter from ITC to Ron Williams		48	52	52
JEFFREY D. LARSON, LARSON & NIPE, Attorneys at Law, P.O. Box 277, Woonsocket, South Dakota 57385, appearing on behalf of Santel;					4 - 12/19/03 Letter from Wilson to Heiberger		48	52	52
					5 - Routing Proposal by ITC		52	89	--
JODY ODEGAARD SMITH, GLOVER, HELSPER & RASMUSSEN, Attorneys at Law, 100 22nd Avenue, Suite 200, Brookings, South Dakota 57006, appearing on behalf of Brookings.					6 - Minnesota Petition for Suspension		56	550	553
					7 - 10/18/03 Letter from Williams to Swiftel		314	314	315
					8 - 12/19/04 Letter from Williams to Reisenauer		449	--	--
					9 - Revised Costs		529	541	548
					10 - NECA Model End-User Charges		529	549	--
					11 - Survey of rural customers		529	541	549
					12 - NECA Letter with Model		539	541	549
					13 - 2004 Rural Youth Survey		691	700	701
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Jerry Heiberger	41	44,94			14 - Qwest Comments		697	700	701
		104	126	129					
John DeWitte	135	141,205			15 - Bullock companies cost comparisons		925	926	926
		216	269	281,290					
	454	464,472	490	492	16 - Letter from Oak Hill Consulting		951	952	953
	--	1085	--	--					
		1089	--	--	17 - Western Switch Upgrade Costs		1004	1010	1011
	1121	1125	--	--					
W. James Adkins	294	298,299			18 - Spreadsheets for today's companies		1018	1021	1021
		317	322	325					
Marjorie Nowick	341	344,352	359	--	19 - Revised Santel Cost Comparison		1129	1130	1130
Randy Houdek	362	365,386							
		387	411	418	TTC Exhibit Nos.		M	O	R
Jerry Reisenauer	427	430,439	445	448,451	1 - Heiberger Direct		13	43	43
Steven Watkins	495	508,510	526	--	2 - Heiberger Rebuttal		13	43	43
Ron Williams	529	565,591			3 - DeWitte Direct		13	140	140
		600,611	687	705,713	4 - DeWitte Rebuttal		13	140	140
	925	926	940	940	4A - DeWitte Supplemental Rebuttal		1082	1082	1083
	1019	1022	1035	--	4B - DeWitte Corrected to Rebuttal Supplemental		1082	1082	1083
	1058	1059	--	--	5 - Petition		13	--	--
	1129	1131	1134	--	6 - Revised Heiberger Direct		1071	1072	1072
Steven Olason	739	741,750			7 - Simmons Direct		1071	1072	1072
		751	754,756	755	8 - Lohnes Direct		1071	1072	1072
Shane Ayres	757	759,760			9 - Letter dated 6/23/04		1078	1079	1079
		761	--	--	Midcontinent Exhibit Nos.		M	O	R
Dennis Law	766	773,785			1 - Unidentified		13	--	--
		787	804,812	807					
Don Snyders	813	814,819							
		819	822	822,823					
Bryan Roth	824	826,831	--	--					
Tom Bullock	833	865,886							
		890	907	913,917					
Rod Bowar	943	950,956	962,966	964					

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2 - Adkins Rebuttal	293	297	298
3 - DeWitte Direct	327	463	464
<u>Stockholm Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Nowick Direct	327	344	344
2 - Nowick Rebuttal	327	344	344
3 - DeWitte Direct	327	463	464
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1 - Houdek Direct	362	365	365
2 - Houdek Rebuttal	362	365	365
3 - DeWitte Direct	362	463	464
4 - 6/18/04 Letter to Wise from Powell	414	416	418
<u>West River Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Reisenauer Direct	426	429	429
2 - Reisenauer Rebuttal	426	429	429
3 - DeWitte Direct	426	463	464
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3 - List of SDTA Members	592	638	638

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2 - Bullock Rebuttal	833	858	859
3 - Bullock Corrected	1081	1081	1081
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3 - Bullock Direct	812	865	865
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2 - Roth Rebuttal	823	825	826
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<u>Western Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
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<u>Davis Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
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2 - Davis Rebuttal	989	994	994
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3 - Bullock Direct	765	865	865
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2 - Williams Rebuttal	1061	--	--
3 - Neff Direct	1061	--	--
4 - Neff Rebuttal	1061	--	--
5 - Costs document	1061	--	--
<u>Santel Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Kroell Direct Prefiled	1071	1094	1094
2 - DeWitte Direct Prefiled	1071	1124	1124
3 - DeWitte Rebuttal	1071	--	--

(Exhibit WWC 1 is marked for identification)  
(Exhibits ITC 1 through 5 are marked for identification)  
(Exhibits Midco 1 and 2 are marked for identification)

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TRANSCRIPT OF PROCEEDINGS, held in the  
above-entitled matter, at the State Capitol Building,  
500 East Capitol Avenue, Pierre, South Dakota, on the  
21st day of June through the 1st day of July 2004.

1 (Exhibits Stockholm 1 through 3 are marked for identification)  
 2 (Exhibits SDTA 1 and 2 are marked for identification)  
 3 (Exhibit Brookings 3 is marked for identification)  
 4 MR. SMITH: We are back in session  
 5 in the LNP Dockets, the numbers of which I'm not  
 6 going to repeat. Today we're going to begin, as we  
 7 said yesterday, with Mr. Gerdes presenting his  
 8 Motion and following that we'll begin with the  
 9 managers that were noticed in the Notice of Hearing  
 10 and we'll take them in the order in which they  
 11 appeared in the notice, unless some of them aren't  
 12 here, and then we'll take them in a different  
 13 order. Randy isn't here at the moment.  
 14 Mr. Gerdes, would you care to proceed with  
 15 your Motion.  
 16 MR. GERDES: Thank you,  
 17 Mr. Chairman. Members of the Commission, we've  
 18 made a Motion for judicial notice to ask that the  
 19 testimony of Tom Simmons -- that the Commission  
 20 take judicial notice of the testimony of Tom  
 21 Simmons and Mary Lohnes for the purposes of the LNP  
 22 Dockets, and specifically as it relates to Docket  
 23 TC04-054. And as a matter of fact, I should  
 24 correct myself. The Motion is simply that that  
 25 testimony be applicable to the TC04-054 Docket and

1 not the other Dockets.  
 2 And of course there's no question but that the  
 3 Commission is entitled to and can take judicial  
 4 notice. That's statutorily preserved in 1-26-19.  
 5 The question simply is will the Commission exercise  
 6 discretion.  
 7 In our Motion we've set forth what we think  
 8 are substantial reasons why it should. First of  
 9 all, the relief requested in the 192 Docket was  
 10 partially -- there were two things asked for. One,  
 11 to compel good-faith negotiation and the other to  
 12 compel local number porting. So that issue was in  
 13 that Docket and was contemplated by their  
 14 testimony.  
 15 Secondly, the parties are the same and the  
 16 issue of local number porting is the same and as I  
 17 indicated to the Commission before, quite frankly I  
 18 believe we were under the impression the testimony  
 19 would be applicable to both and I apologize that I  
 20 wasn't clear on that coming into these hearings.  
 21 Our alternative is to re-call them as  
 22 witnesses and have them give essentially the same  
 23 direct testimony again in these Dockets. And we  
 24 would of course -- if this Motion is denied we  
 25 would make a Motion to permit them to come back and

1 present testimony which I will represent will be  
 2 essentially the same as they have already given.  
 3 And as I have said, they have been subject to  
 4 cross-examination by the same parties in the Docket  
 5 and the cross-examination was wide ranging and it  
 6 did touch on LNP issues.  
 7 So without belaboring the point I've cited  
 8 some cases that talk about the fact that judicial  
 9 notice of prior proceedings can be taken. Of  
 10 course, the Commission knows that well. Based on  
 11 my own experience the Commission has taken judicial  
 12 notice of prior Dockets and testimony in prior  
 13 Dockets. The one that comes to my mind was in the  
 14 US West switched access rates Docket. My  
 15 recollection is that the Commission took judicial  
 16 notice of that -- of a prior proceeding in switched  
 17 access rates.  
 18 So with that, Mr. Chairman, members of the  
 19 Commission, we would ask the Commission to take  
 20 judicial notice of the testimony of W. Tom Simmons  
 21 and Mary Lohnes and take judicial notice of that  
 22 testimony and such portions of that testimony as  
 23 the Commission deems relevant to the issues in this  
 24 Docket and that the evidence be applicable to this  
 25 Docket only, referring to TC04-054.

1 MR. SMITH: And when you ask the  
 2 Commission to take judicial notice of the  
 3 testimony, you're asking us only to take judicial  
 4 notice that the testimony as represented on the  
 5 transcript and the exhibits is what it is?  
 6 MR. GERDES: Right. And that it be  
 7 applicable to the 054 Docket.  
 8 MR. SMITH: As opposed to the  
 9 judicial notice statutes contemplate taking  
 10 judicial notice of facts. And you're not asking us  
 11 to take judicial notice that anything in that  
 12 testimony is true or not true?  
 13 MR. GERDES: Only to the extent that  
 14 the facts are represented by the testimony, if I --  
 15 I mean, the Commission as the finder of fact can  
 16 either accept those facts or not in the testimony,  
 17 but I think I'm asking that the testimony be  
 18 taken -- judicial notice be taken of the testimony  
 19 to the extent that it may be relevant to the issues  
 20 of the 054 Docket. I mean, it would be evidence in  
 21 the 054 Docket is what we're asking.  
 22 MR. SMITH: Alternatively then the  
 23 judicial notice, would another avenue for doing  
 24 this would be to just move the admission of that  
 25 testimony into this Docket?

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1 MR. GERDES: I could do that too.  
 2 MR. SMITH: The record in that case.  
 3 MR. GERDES: Right. My purpose is  
 4 to accomplish that.  
 5 MR. SMITH: Your purpose is so we  
 6 don't have to listen to it all over again.  
 7 MR. GERDES: That's correct.  
 8 MR. SMITH: With that, let's  
 9 entertain a response.  
 10 MR. DICKENS: Thank you, Mr. Smith  
 11 and Commissioners. We do oppose the Motion, both  
 12 as a matter of fairness, particularly having  
 13 listened to the comments of my friend Mr. Gerdes  
 14 and after doing a little additional research in  
 15 lieu of the filing of the Motion yesterday.  
 16 The reason that we oppose it basically is  
 17 fundamental fairness. Mr. Gerdes' client had an  
 18 opportunity to file testimony in this case and  
 19 didn't. Instead it filed testimony in a case  
 20 involving an allegation of bad faith, which said,  
 21 by the way, we want you to order them to implement  
 22 LNP as a result of our Motion to Compel.  
 23 I did, I believe, cross-examine Ms. Lohnes to  
 24 the extent -- on the issue of whether they  
 25 thought -- whether Midco's position was the

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1 Interconnection Agreement required us to actually  
 2 implement LNP, and she said yes. That's briefable.  
 3 You know, we felt -- there's no argument that we  
 4 didn't get due process. I say that I'm still not  
 5 happy you struck the testimony, but we're not --  
 6 we're not contesting that some major lapse of  
 7 fundamental fairness occurred because we weren't  
 8 able to present a case.  
 9 This Docket is a Motion to suspend under a  
 10 different section of the statute. This Docket is  
 11 the subject of Section 251(f) of the '96 Act which  
 12 sets forth certain standards for suspension of an  
 13 LNP requirement, that is technical feasibility,  
 14 economic burden from a couple of different prongs,  
 15 and public interest.  
 16 None of the testimony addresses those. If  
 17 Ms. Lohnes and Mr. Simmons were here to testify, we  
 18 would cross-examine them as to those statutory  
 19 elements because their testimony has to be  
 20 responsive or relevant in some way to those  
 21 elements that control this proceeding. So you  
 22 asked Mr. Gerdes, do you want us to take judicial  
 23 notice of the testimony just to show that they said  
 24 that in that proceeding and his response was no, we  
 25 want you to take judicial notice so that those

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1 facts are established in this record and we're  
 2 unable to -- we don't have our fundamental tools of  
 3 due process and fairness if you do that because he  
 4 is asserting those facts for the truth of the  
 5 matter asserted, not merely that they were said.  
 6 They are facts that he wants to establish in this  
 7 record as probative on the question of whether a  
 8 suspension should be granted or not.  
 9 Midco had an opportunity to file testimony.  
 10 They didn't for whatever reason. Our clients  
 11 shouldn't have to bear the burden and be prejudiced  
 12 because of that, and I think that's the result.  
 13 On the law that Mr. Gerdes cited, Alexander  
 14 vs. Solem, I would point out first that the court  
 15 records that were the subject of judicial notice is  
 16 on page 488 of the case that is cited, reflects  
 17 that it was a criminal file which contained  
 18 certified copies of prior judgments of conviction.  
 19 There's no Commission action we're taking judicial  
 20 notice of or the request is not to take judicial  
 21 notice of a Commission action. It's a contested  
 22 fact. It would be a contested fact.  
 23 Now Mr. Meierhenry, who was a lawyer for the  
 24 State of South Dakota in the case cited by  
 25 Mr. Gerdes, since wrote a trial practice manual for

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1 South Dakota and in his trial practice manual that  
 2 Mr. Meierhenry wrote, this is from the South Dakota  
 3 trial handbook, chapter 19, page 140 under heading  
 4 Section 19:2, items which may be judicially  
 5 noticed, the third paragraph says, "The court need  
 6 not have actual knowledge to judicially notice a  
 7 fact. However, as soon as the matter becomes  
 8 disputable it is no longer common knowledge and it  
 9 should not be judicially noticed by the court."  
 10 And I would submit to you with all due respect  
 11 that we very much dispute testimony that says we  
 12 should have -- we should be forced to implement  
 13 LNP. That's why we've invested all the time and  
 14 money and witnesses and lawyers is to try to avoid  
 15 that result. So with all due respect to Midco, I  
 16 would submit that neither fundamental fairness nor  
 17 the law compels you to take judicial notice.  
 18 MR. SMITH: Mr. Coit.  
 19 MR. COIT: Thank you. SDTA would  
 20 concur in the position just stated by Mr. Dickens.  
 21 I would also note that unless something escapes me,  
 22 I don't believe we were parties. SDTA, who is a  
 23 party in this proceeding is not a party to that  
 24 other case. Thank you.  
 25 MR. SMITH: Mr. Wieczorek.

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1 MR. WIECZOREK: I have no objection  
2 to their Motion and granting it. It seems as  
3 confusing as it's been scheduling these things, I  
4 can understand how there could be some confusion as  
5 to what testimony was supposed to apply to what.  
6 And I was not a party to that Motion to Compel but  
7 the statements made concerning LNP I don't believe  
8 are prejudicial to anybody, they just set forth the  
9 facts and what's been requested.  
10 MR. SMITH: Thank you. Ms. Wiest.  
11 MS. WIEST: I would agree with  
12 Mr. Wieczorek that the circumstances leading up to  
13 this has been rather confusing with respect to  
14 whether this should be -- whether the Dockets were  
15 actually going to be combined or not, but at this  
16 point I guess I would say that Midcontinent did not  
17 file in 04-054 and so I would think that they would  
18 have to put on witnesses in that case.  
19 MR. SMITH: Chairman Sahr.  
20 CHAIRMAN SAHR: I had a question for  
21 Mr. Dickens. You've indicated that you do intend  
22 to cross-examine the witnesses of Midcontinent. Is  
23 that your intention if they do come back?  
24 MR. DICKENS: If they were permitted  
25 to come back, I would like to cross-examine them

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1 and possibly sponsor rebuttal testimony.  
2 CHAIRMAN SAHR: And is this  
3 cross-examination that -- and I think clearly we  
4 didn't have a meeting of the minds on what was  
5 expected for the witnesses of Midcontinent. Is  
6 this cross-examination that you would have  
7 conducted on Monday if you had known that that  
8 would have been your one and only chance to  
9 cross-examine the witnesses?  
10 MR. DICKENS: It's cross-examination  
11 I would have conducted had I known that the  
12 testimony concerned the standards for suspension in  
13 this proceeding as opposed to the Motion to Compel  
14 because they're different legal standards.  
15 CHAIRMAN SAHR: Thank you.  
16 MR. SMITH: Mr. Gerdes, do you have  
17 a response?  
18 MR. GERDES: Very briefly. Thank  
19 you. First, we do not necessarily agree that the  
20 statutory foundation for the two Dockets is  
21 different because in asking for local number  
22 portability in the 192 Docket Midcontinent was in  
23 fact asking for relief under the Federal Act.  
24 Secondly, as to the character of the evidence,  
25 as you will note, the Motion is to take judicial

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1 notice of that testimony to the extent the  
2 Commission deems it applicable to the 054 Docket.  
3 And so I've tried to craft the requested relief as  
4 narrowly as possible, yet to we believe present a  
5 situation which is fundamentally fair to both  
6 Midcontinent and to the other parties.  
7 Finally, if, in fact, Mr. Dickens would like  
8 to cross-examine further the witnesses, we would  
9 have no problem in asking them to come back at an  
10 appointed time to be cross-examined additionally on  
11 whatever other topics that Mr. Dickens and others  
12 would choose to pursue within the framework of  
13 their direct testimony.  
14 CHAIRMAN SAHR: I will move that we  
15 go into executive session.  
16 VICE CHAIR HANSON: Second.  
17 (A short recess is taken at which time the  
18 Commission meets in executive session)  
19 MR. SMITH: We're back on the record  
20 having returned from executive session. I am going  
21 to deny the Motion to take judicial notice. I  
22 guess if you want later when I get to that, Dave,  
23 if you want to alternatively move to have that  
24 evidence introduced that might be an alternative.  
25 In the interest again as I think your point's

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1 well taken, Ben, that fairness is an issue, and I  
2 think the Commission believes that it would be  
3 prejudicial to Petitioners to have this happen.  
4 The other side of the fairness issue is how do  
5 we deal with Mr. Gerdes' misapprehension of the  
6 discovery and scheduling order and I think in the  
7 interest of fairness there it's our decision we are  
8 not going to act in a harsh manner with respect to  
9 that. And I think the solution, Dave, and what  
10 we've decided is to schedule Midcontinent for 054,  
11 to allow you, your witnesses, to appear in the 054  
12 Docket on July 1, and despite the fact that you  
13 didn't prefile any testimony due to a mistake we're  
14 going to allow your witnesses to testify in the 054  
15 Docket and then allow a full cross-examination by  
16 Petitioners.  
17 MR. DICKENS: May I ask would the  
18 testimony --  
19 CHAIRMAN SAHR: Please turn on your  
20 mike.  
21 MR. DICKENS: Pardon me. Would the  
22 testimony that would be sponsored on July 1  
23 constitute the same testimony that was prefiled,  
24 they sponsored the prefiled testimony in the other  
25 Docket?



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1 MR. SMITH: I think you'll have to  
2 address that to Mr. Gerdes. I don't know what he  
3 would do.

4 MR. GERDES: My question would be do  
5 you want us to file prefiled testimony in advance  
6 of July 1?

7 MR. SMITH: Do you want that?

8 MS. SISAK: (Nods head).

9 MR. GERDES: Then we will do it if  
10 that's what you want. And I guess the next  
11 question, I had contemplated it would be  
12 substantially the same as the first testimony and I  
13 guess what we'll do is we'll just file what we  
14 think is appropriate and you can comment on that.  
15 I'm not proposing it's going to be substantially  
16 different, don't get me wrong.

17 MR. DICKENS: I was going to say if  
18 it were going to be exactly that testimony, I think  
19 we would stipulate the testimony into the record  
20 and just cross-examine them on that.

21 MR. GERDES: Oh, let me --

22 MR. DICKENS: Let me give that some  
23 thought with my co-counsel and that may be a way to  
24 handle it.

25 MR. SMITH: On that issue in terms

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1 of prefiling why don't we hear some testimony and  
2 you guys have some time to think about that and  
3 we'll revisit that maybe first thing after lunch.

4 MR. GERDES: Fine.

5 CHAIRMAN SAHR: I want to add one  
6 thing. Pretty obviously there was some confusion  
7 as to how these proceedings would work and I think  
8 to a large extent it obviously was a good-faith  
9 error on Midcontinent on their part and the  
10 unfortunate thing is I think if we would have been  
11 able to have the cross-examination on Monday we  
12 probably would have spent less time doing that than  
13 we have and less effort than we have with the  
14 attorneys and time spent here. So it's  
15 unfortunate, but I think we definitely appreciate  
16 everyone's willingness to be reasonable and trying  
17 to correct what was obviously just a  
18 misunderstanding.

19 (Discussion off the record)

20 MR. SMITH: With that, Petitioners  
21 please proceed with the three company Dockets that  
22 we have for this morning and those are TC04-062,  
23 Stockholm Telephone Company; TC04-060, Venture  
24 Communications Cooperative; and TC04-061, West  
25 River Cooperative Telephone Company.

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1 MS. POLLMAN ROGERS: Thank you. And  
2 I believe what we have discussed was calling the  
3 general managers first this morning so I would  
4 first of all call Marjorie Nowick to the stand.

5 MARJORIE NOWICK,  
6 called as a witness, being first duly sworn in the  
7 above cause, testified under oath as follows:

8 DIRECT EXAMINATION

9 BY MS. POLLMAN ROGERS:

10 Q Could you please state your name and address for the  
11 record.

12 A My name is Marjorie Nowick and my business address is  
13 Post Office Box 20 and we're located at 210 North Main  
14 Street in Stockholm, South Dakota.

15 Q What is your occupation?

16 A Well, I have been the office manager, and I am one of  
17 the owners of the company and we are a little rural  
18 telephone company, family-owned company in the  
19 northeast corner of South Dakota.

20 Q And you're referring to Stockholm-Strandburg Telephone  
21 Company?

22 A Yes.

23 Q I'm going to hand you what has been marked as Stockholm  
24 Exhibit 1 and also Stockholm Exhibit No. 2. Do you  
25 want to take a look at those and tell me what they are?

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1 A Well, this is the matter of the petition of the  
2 Stockholm-Strandburg Telephone Company for suspension  
3 and modification of the Communication Act of 1934 as  
4 amended.

5 Q And is Exhibit 1 your prefiled direct testimony in this  
6 case?

7 A Yes, ma'am.

8 Q And is Exhibit No. 2 your prefiled rebuttal testimony  
9 in this Docket?

10 A Yes, ma'am.

11 Q And as you take a look at those, are those accurate  
12 copies of that testimony as we filed them in this  
13 Docket?

14 A Yes, it is.

15 Q Do you have any corrections or additions that you would  
16 like to make to these documents or exhibits at this  
17 time?

18 A The only correction is on the rebuttal testimony I  
19 would like to take and have I am the office manager of  
20 the Stockholm-Strandburg Telephone Company and correc  
21 our address and that is 210 North Main Street,  
22 Stockholm, South Dakota.

23 Q Okay. So on page 1 of Exhibit 2 you are talking about  
24 line 2 and we are going to strike general manager and  
25 put office manager; is that correct?

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1 A Yes.  
 2 Q Okay. And on line 3 of the first page of your rebuttal  
 3 testimony it should be 210 North Main Street instead of  
 4 201?  
 5 A Yes.  
 6 Q Any other additions or corrections?  
 7 A Not to my knowledge.  
 8 Q Okay. If I asked you the same questions that are  
 9 contained in Exhibits 1 and 2 today, would you respond  
 10 in the same way?  
 11 A I would try to do the best I could.  
 12 Q Okay. This testimony was prepared by you or under your  
 13 direction; is that correct?  
 14 A Yes.  
 15 Q And could you please provide us with a brief summary of  
 16 your testimony?  
 17 A Well, I'm not sure what you mean by that, Darla.  
 18 Q Would you like to summarize what you testified to in  
 19 your direct testimony, in your rebuttal?  
 20 A Well, I can tell you a little bit about our telephone  
 21 company. We have EAS between Stockholm and Milbank.  
 22 We have EAS between Revillo and Milbank and our  
 23 South Shore subscribers have EAS to Watertown.  
 24 Q Perhaps I can help you a little bit. Do you feel that  
 25 based on the testimony that you've submitted that it

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1 would be extremely costly to your customers if you were  
 2 forced to implement LNP?  
 3 A Yes, it would be.  
 4 Q And have you had any demand for LNP from your  
 5 customers?  
 6 A No, we have not.  
 7 MS. POLLMAN ROGERS: Thank you,  
 8 Marj, and I would tender her for cross-examination.  
 9 I'm sorry. I will move Exhibits 1 and 2.  
 10 MR. LEWIS: No objections.  
 11 MR. GERDES: No objection.  
 12 MS. WIEST: No objection.  
 13 MR. SMITH: Exhibits Stockholm 1 and  
 14 Stockholm 2 are admitted.  
 15 MR. COIT: I have no questions on  
 16 cross.  
 17 MR. WIECZOREK: Mr. Smith, Mr. Lewis  
 18 will be doing the examination of this witness.  
 19 MR. SMITH: Please proceed,  
 20 Mr. Lewis.  
 21 MR. LEWIS: Members of the  
 22 Commission, good morning, counsel.  
 23 CROSS-EXAMINATION  
 24 BY MR. LEWIS:  
 25 Q Good morning, Ms. Nowick.

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1 A Good morning.  
 2 Q How are you?  
 3 A Fine. Thank you.  
 4 Q My name is Paul Lewis and I represent Western Wireless  
 5 in this Docket. I have a series of questions for you.  
 6 Ma'am, you understand that in 1996, over  
 7 eight years ago, number portability became required by  
 8 the FCC, do you not?  
 9 A I remember when it was, you know, put on the record,  
 10 yes, I do.  
 11 Q And so by November 10 of 2003 the FCC mandated  
 12 compliance for your company for local number  
 13 portability by May 24 of 2004 unless there was an  
 14 exception granted. Is that true?  
 15 A Yes.  
 16 Q In your testimony on page 3, line 9 of your direct,  
 17 that's Stockholm 1.  
 18 A Okay.  
 19 Q You acknowledge to having received a bona fide request  
 20 from Western Wireless in December of 2003. That's  
 21 correct, is it not?  
 22 A Yes.  
 23 Q So from December of 2003 until May of 2004 in  
 24 investigating your options available to you to  
 25 implement LNP you never contacted Western Wireless to

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1 discuss what options were available to you, did you?  
 2 A That is correct. And when I received the letter I just  
 3 kind of thought it was an informative letter -- you  
 4 know, a form letter that was sent out to people and I  
 5 didn't think it was necessary to contact to you.  
 6 Q But you will acknowledge that you did understand it was  
 7 a bona fide request letter?  
 8 A Yes, I did, sir.  
 9 Q Now one of the arguments that's being presented before  
 10 the Commission today, and Mr. DeWitte has referred to  
 11 it as well as Mr. Dickens, is the economic impact or  
 12 the undue economic burden on your company and your  
 13 customers. Do you agree with that?  
 14 A That is right.  
 15 Q But you also realize that Congress clearly envisioned  
 16 that the implementation of LNP is going to cost  
 17 somewhat; is that true?  
 18 A That is true.  
 19 Q And you also realize that Congress anticipated those  
 20 costs and provided for an end-user surcharge to help  
 21 cover those expenses; correct?  
 22 A Yes.  
 23 Q Now, ma'am, you've noted in your direct testimony on  
 24 page 1 that cellular companies, PCSs, they have a much  
 25 larger local calling area than what you have with your

1 exchange at Stockholm-Strandburg. Is that not true?  
 2 A That's correct.  
 3 Q And would you not agree that it's beneficial for the  
 4 public to have a carrier that can provide them a larger  
 5 local calling area? It's a convenience?  
 6 A I would prefer not to answer that question.  
 7 Q Let me rephrase it. You have an extended area of  
 8 service to Milbank and Watertown; correct?  
 9 A Yes.  
 10 Q And that's a local call, is it not?  
 11 A Yes.  
 12 Q And would you not agree that that basically was  
 13 prompted by the fact that you had customers who wanted  
 14 to call Watertown or Milbank frequently?  
 15 A Yes.  
 16 Q And they didn't want to incur toll charges for those  
 17 calls.  
 18 A That is correct.  
 19 Q So by providing to your customer needs you went ahead  
 20 and made that a local call.  
 21 A That is correct.  
 22 Q Essentially expanding your calling area, wouldn't you  
 23 agree?  
 24 A That is correct.  
 25 Q So if we talk about just basic pocketbook economics,

1 you know, what hits you in the wallet, it would  
 2 obviously be a benefit for people to be able to keep  
 3 their same phone number but get an extended area of  
 4 service available to them. Wouldn't you agree with  
 5 that?  
 6 A Yes and no.  
 7 Q But yes in terms of customer outlay or expense, what  
 8 they have to pay?  
 9 MS. POLLMAN ROGERS: I will object  
 10 and make sure that the witness understands the  
 11 question. Maybe you would like to rephrase it.  
 12 Q Ms. Nowick, when you say yes and no to my question,  
 13 what don't you understand?  
 14 A Well, I guess I've been in the telephone business for  
 15 many years, 38, and knowing my customer base as it is,  
 16 I have a lot of elderly people and I guess there could  
 17 be added burdens to some people. So I'm very reluctant  
 18 to answer this question.  
 19 Q I'll move on. I'd like to refer you to your direct  
 20 testimony on page 3.  
 21 A Uh-huh. And what lines, sir, please?  
 22 Q It's your answer to the broadband delivery issue. It's  
 23 line 18.  
 24 A Okay. Thank you.  
 25 Q And your statement begins with "We would." Would you

1 please read that, your response to the question?  
 2 A Okay. Let me see. Now you're on --  
 3 Q Page 3 of your direct.  
 4 A My rebuttal testimony?  
 5 Q Your direct, Exhibit 1.  
 6 A And you said line 18?  
 7 Q Correct. And the statement beginning with "We would."  
 8 It's about the middle of the line.  
 9 A I'm sorry. I'm not finding that on here. Here's my  
 10 18.  
 11 Q Sure.  
 12 A Here's my direct. Okay. Here's line 18.  
 13 Q Page 3.  
 14 A Okay. Okay.  
 15 Q Broadband and we've got a little bit different  
 16 numbering system. Here we go. Right there.  
 17 MS. POLLMAN ROGERS: You can go off  
 18 of this if you want.  
 19 A "We would prefer to serve the real demands of our  
 20 customers than provide a service that has been mandated  
 21 by the FCC and that our customers are not requesting."  
 22 Q So in that statement you refer to the real demands of  
 23 your customer, do you not?  
 24 A Yes.  
 25 Q Yet you have not done any independent internal surveys

1 within the Stockholm-Strandburg telephone service area  
 2 to determine what your customers would like or what  
 3 they'd be willing to pay to have the option of LNP,  
 4 have you?  
 5 A That is correct. We have not done that.  
 6 Q And, in fact, you're not presenting to the Commission  
 7 today any demographic information on the average income  
 8 or the interests of your client base, are you?  
 9 A No.  
 10 Q Regarding the deployment, the implementation of local  
 11 number portability, Stockholm-Strandburg has not really  
 12 conducted any independent cost investigation either,  
 13 have you?  
 14 A Well, my consultants have taken and done some of this  
 15 work for us or has prepared it.  
 16 Q And when you refer to your consultant, Mr. DeWitte; is  
 17 that true?  
 18 A That is correct.  
 19 Q So basically you've relied on his numbers to constitute  
 20 what you say in your rebuttal testimony as a complete a  
 21 petition as possible. Those were his numbers to make  
 22 your complete petition, is it not?  
 23 A But I believe those numbers were provided from  
 24 information that he has received from us to put these  
 25 things together for us.

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1 Q And that information comes from your personal  
2 knowledge?  
3 A Yes.  
4 Q But no survey work concerning the costings was done.  
5 A No.  
6 Q In your appearance before the Commission today, ma'am,  
7 you're not contending that it is technically infeasible  
8 to implement LNP, are you?  
9 A I would prefer not to respond to that.  
10 MS. POLLMAN ROGERS: I'll object.  
11 It goes beyond the scope of her direct and rebuttal  
12 exam.  
13 MR. SMITH: I'm going to sustain the  
14 objection.  
15 Q Now as we've previously discussed, it's true that  
16 Stockholm-Strandburg has local calling to Watertown,  
17 isn't it?  
18 A Yes.  
19 Q So would you tell the Commission how you're planning to  
20 make sure that ported numbers from a local Watertown  
21 wireline is going to be ported properly?  
22 MS. POLLMAN ROGERS: I'm going to  
23 interpose the same objection. This goes beyond the  
24 scope of what she has testified to in her direct  
25 and redirect. Furthermore, I believe that these

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1 questions can be directed to her cost consultant.  
2 MR. SMITH: Sustained.  
3 MR. LEWIS: No further questions.  
4 MR. SMITH: Thank you. Mr. Gerdes  
5 is not a party to this; right?  
6 MR. WIECZOREK: He is not.  
7 MR. SMITH: Ms. Wiest.  
8 MS. WIEST: Thank you.  
9 CROSS-EXAMINATION  
10 BY MS. WIEST:  
11 Q What is your current local rate?  
12 A My current rate is -- I've got three different rates  
13 for my exchange. They're in here someplace. Well, I  
14 will take and give them to you the best of my  
15 knowledge.  
16 Q Okay.  
17 A Our Stockholm customers pay \$15. Our city residents in  
18 the Revillo exchange pay \$15. Our Revillo customers  
19 that are out in the area pay 17.20, and now this is  
20 residential customers, Rolayne.  
21 Q Sure.  
22 A And our South Shore customers pay \$15 and our resident  
23 rural pays 18 and -- okay. Our Stockholm customers pay  
24 15 and 15. Now we will go to the business entity.  
25 Revillo pays in the city 27.50, and the business rural

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1 is 27.50. South Shore, the business is 29.80, and the  
2 rural is 32.80, and the Stockholm is 19.50, and the  
3 rural business is 19.50.  
4 Q Thank you. And you state that there are four wireless  
5 carriers that have the authority to serve your area?  
6 A I believe the testimony -- I believe it is five.  
7 Q Oh, okay. Five. And of those how many are actually  
8 currently serving your area?  
9 A Well, Western Wireless is.  
10 Q Okay.  
11 A And RC, which is Cellular 2000.  
12 Q And are they serving your entire area?  
13 A Yes. Oh, yes. Yes. They serve our entire area. And  
14 we have -- I can't remember what page this was on where  
15 these were listed.  
16 Q Page 2, line 19 on your direct.  
17 A Okay. Just a minute. Okay. And then Verizon and  
18 Western Wireless, Sprint, Nextel, and RC, and I would  
19 say of the two of them it is Western Wireless and RC  
20 that are the biggest. And then there possibly could be  
21 some Sprint also.  
22 Q So is Nextel currently serving or do they just have the  
23 authority to serve?  
24 A I believe they just have the authority to serve.  
25 Q For those carriers that do not currently provide

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1 service, do you have any reason to expect that they  
2 will be providing service in the near future?  
3 A I do not know.  
4 Q Okay. If the Commission were to order you to implement  
5 LNP, as you understand what your cost witnesses come up  
6 with, do you believe that you would look at more  
7 efficient and less costly options at that point?  
8 A I don't know. I don't know how to respond to that.  
9 MS. WIEST: I have nothing further.  
10 MR. SMITH: Thank you. Are there  
11 any questions from the Commissioners?  
12 COMMISSIONER BURG: None.  
13 CHAIRMAN SAHR: Good morning.  
14 THE WITNESS: Good morning.  
15 CHAIRMAN SAHR: Again.  
16 THE WITNESS: Good morning.  
17 CHAIRMAN SAHR: I just have a couple  
18 of questions. And I'm going to talk about some  
19 figures from the cost study, but I'm not going to  
20 ask you about the numbers, just the impact.  
21 On the cost study done by Mr. DeWitte we are  
22 looking at, according to his figures, \$5.58 per  
23 month recurring charges for your customers without  
24 transport, and including transport, close to \$40 a  
25 month, which just from my quick perusal, appears to

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1 be some of the highest numbers in the state.  
 2 THE WITNESS: That is correct.  
 3 CHAIRMAN SAHR: I would assume that  
 4 that would have a significant impact on either your  
 5 operations or else customers or perhaps both if you  
 6 were forced to --  
 7 THE WITNESS: Yes, it would.  
 8 CHAIRMAN SAHR: To take on those  
 9 costs.  
 10 THE WITNESS: And I could tell you a  
 11 little story about this, you know, that I have one  
 12 customer and she's a very good customer. She has a  
 13 cell phone and she has told me this, that she uses  
 14 her cell phone, calls her family, and then her  
 15 family call her right back.  
 16 CHAIRMAN SAHR: Thank you.  
 17 COMMISSIONER BURG: I do have one,  
 18 John.  
 19 MR. SMITH: Commissioner Burg.  
 20 COMMISSIONER BURG: Marj, you know,  
 21 you're indicating if you had to invest in something  
 22 like this it would delay --  
 23 THE WITNESS: Pardon?  
 24 COMMISSIONER BURG: It would delay  
 25 the DSL build-out that your customers are more

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1 interested in; correct?  
 2 THE WITNESS: Well, we are doing DSL  
 3 as of now and it probably could.  
 4 COMMISSIONER BURG: What percentage  
 5 of your customers have DSL availability? Not how  
 6 many take it but what percent could take it if they  
 7 wanted to?  
 8 THE WITNESS: Well, I believe all of  
 9 our customers could because we have been pushing  
 10 out quite far and it is working fine with all the  
 11 new technology that we've got to help us.  
 12 COMMISSIONER BURG: Okay. Good.  
 13 Thank you. That's all I have.  
 14 VICE CHAIR HANSON: Thank you, John.  
 15 MR. SMITH: Do you have a question,  
 16 Commissioner Hanson?  
 17 VICE CHAIR HANSON: Thank you.  
 18 Ms. Nowick, how do you pronounce your last name,  
 19 Nowick?  
 20 THE WITNESS: N-O-W-I-C-K, Nowick,  
 21 and that's because those crazy Norwegians didn't  
 22 know how to spell when they came to the  
 23 United States.  
 24 VICE CHAIR HANSON: We'll talk about  
 25 how it was originally spelled some other time. On

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1 page 3 of your testimony, and this is gratuitous  
 2 that Commissioner Burg asked the questions he did  
 3 because I've highlighted some parts of your  
 4 testimony on your --  
 5 THE WITNESS: Are you on the direct?  
 6 VICE CHAIR HANSON: I'm on the  
 7 prefiled.  
 8 THE WITNESS: The prefiled. Okay.  
 9 VICE CHAIR HANSON: Page 3,  
 10 beginning on line 13. I don't know that you need  
 11 to reference it. But you stated "Of all of our new  
 12 services, our customers are most interested in  
 13 broadband."  
 14 I assume you know your customers fairly well.  
 15 You have 714 exchanges and a small town, you  
 16 probably know a lot of folks. But how do you know  
 17 for certain of all of the new services that are  
 18 available that they are most interested in  
 19 broadband?  
 20 THE WITNESS: Well, I believe it's  
 21 because of the questions that people are asking.  
 22 They're very interested in TV. They are requesting  
 23 more and more, you know -- more people are taking  
 24 Internet and I definitely do believe that broadband  
 25 is here to stay.

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1 VICE CHAIR HANSON: Without getting  
 2 into any confidential information about your  
 3 company, I imagine that's an expensive build-out  
 4 for you, broadband. I'm trying to see how the  
 5 switching to LNP may affect your build-out because  
 6 that is part of your argument here.  
 7 In your statement to an extent you state that  
 8 if you -- I'm searching for -- there's a number of  
 9 questions that I can easily ask you, but I don't  
 10 know that they would -- I don't want to harm your  
 11 business. The LNP build-out, will that in some way  
 12 delay the broadband? Have you examined the  
 13 financial costs of LNP so you know that?  
 14 THE WITNESS: Well, I guess not any  
 15 more than what Mr. DeWitte has done, you know, for  
 16 us. And we are in the process of doing a broadband  
 17 loan at this time and we are not quite finished  
 18 with that but we have been working on that.  
 19 VICE CHAIR HANSON: You know that  
 20 you would be able to pass the cost onto the  
 21 consumer in order to provide for the LNP. What  
 22 affect do you see that as having on your exchange?  
 23 THE WITNESS: I would probably  
 24 rather to have Mr. DeWitte answer this for me,  
 25 please.

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1 VICE CHAIR HANSON: All right. Just  
2 curious from your own personal knowledge and your  
3 relationship with your customers. But I appreciate  
4 that and I will have him answer that question.  
5 Thank you very much. Thank you, John.

6 MR. SMITH: Any redirect?

7 MS. POLLMAN ROGERS: I have just a  
8 couple on redirect.

9 REDIRECT EXAMINATION

10 BY MS. POLLMAN ROGERS:

11 Q Marj, you were asked a little bit about your EAS  
12 services. You acquired some of your exchanges later  
13 through a US West, what was then US West acquisition;  
14 is that right?

15 A Yes.

16 Q Were those EAS arrangements in existence when you  
17 bought the exchanges?

18 A Yes.

19 Q So you just continued those services?

20 A Yes.

21 Q All right. You were also asked by Mr. Lewis if you had  
22 done any independent surveys or demographic  
23 information, and I think Mr. Hanson covered this but  
24 how many customers do you serve in your telephone  
25 exchange?

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1 A 714.

2 Q Do you feel you know those customers personally quite  
3 well?

4 A Yes.

5 Q You live in the same community, you have coffee with  
6 them?

7 A I have coffee with them. I've grown up with them.  
8 I've played with them. I've gone to their funerals.  
9 I've done just about everything you can do.

10 Q And have any of those customers asked for or demanded  
11 LNP services from your company?

12 A No, they have not.

13 Q And on the other hand, have some of your customers  
14 requested and in fact availed themselves to broadband  
15 services, access to broadband DSL, Internet, all of  
16 those types of services?

17 A Yes. They have access to all of those services.

18 Q And those are the things they're asking for by way of  
19 service; is that correct?

20 A Yes.

21 Q Okay. And even based on the cost estimates of Western  
22 Wireless wherein excluding transport, just setting that  
23 issue aside for a moment, even Western Wireless's  
24 expert says that best case scenario that \$4.59 is the  
25 per-line, per-month amount. How do you believe your

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1 customers would react if you did choose to pass all or  
2 part of this on and add a surcharge of 4.50 or 59 or 60  
3 cents to their bills? How do you think your customers  
4 would react?

5 A They would not be happy at all.

6 Q You told a story about a customer of yours who calls  
7 her family on the cell phone and then they call back on  
8 the landline phone?

9 A That is correct.

10 Q Why do they do that? Do you know?

11 A Well, in the first place she would like to take and  
12 save herself some money, which is the big thing, and  
13 also the reliability because they are in a bigger city  
14 where they have better cell service and so then she can  
15 visit with them and hear them and so forth much better.

16 Q And they call her back because the landline service is  
17 better quality; is that correct?

18 A That is correct.

19 Q If you were required by this Commission to implement  
20 LNP, would that be a costly burden to your company  
21 based on the cost testimony as you're aware of it?

22 A Yes, it would be.

23 MS. POLLMAN ROGERS: Thank you.

24 That's all I have.

25 MR. SMITH: Mr. Lewis?

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1 MR. LEWIS: No further questions.

2 MR. SMITH: Ms. Wiest?

3 MS. WIEST: Nothing further.

4 MR. SMITH: Anything from the

5 Commissioners? You're excused, Ms. Nowick.

6 THE WITNESS: Thank you, everybody.  
7 (Discussion off the record)

8 MS. POLLMAN ROGERS: We'll call  
9 Randy Houdek to the stand next.

10 (Exhibits Venture 1 through 3 are marked for  
11 identification)

12 MS. POLLMAN ROGERS: I'll call  
13 Randy Houdek, and this would be in Docket No.  
14 TC04-060.

15 RANDY HOUDEK,  
16 called as a witness, being first duly sworn in the  
17 above cause, testified under oath as follows:

18 DIRECT EXAMINATION

19 BY MS. POLLMAN ROGERS:

20 Q Would you please state your name and address for the  
21 record.

22 A Randy Houdek, Highmore, South Dakota.

23 Q What is your occupation?

24 A General manager of Venture Communications.

25 Q Venture is in Highmore and elsewhere in the state?

1 A Right.  
 2 Q Randy, I want you to look at what has been marked as  
 3 Venture Exhibit 1 and Venture Exhibit 2. Are these the  
 4 direct and rebuttal testimony that you filed in these  
 5 Dockets?  
 6 A Yes.  
 7 Q And did you prepare these or were they prepared under  
 8 your direction?  
 9 A Yes.  
 10 Q I understand that you do have some corrections to make  
 11 to these exhibits or one of them in particular?  
 12 A Right. My direct testimony.  
 13 Q Okay. And what corrections would you like us to make  
 14 to that testimony?  
 15 A On page 1 I'd like to add the word "approximately"  
 16 13,666. It changes from month to month.  
 17 Q And that would be on line 10?  
 18 A Yes.  
 19 MR. SMITH: Which page are we on?  
 20 MS. POLLMAN ROGERS: Page 1 of  
 21 direct testimony and referring to the number of  
 22 access lines, add the word "approximately."  
 23 Q Is that correct?  
 24 COMMISSIONER BURG: I don't find  
 25 that on line 10.

1 CHAIRMAN SAHR: On DeWitte's  
 2 testimony.  
 3 COMMISSIONER BURG: Oh, excuse me.  
 4 Q And any other corrections?  
 5 A Yeah. I had a couple of other mistakes and I apologize  
 6 for them, but on line 19 where it says "type 1," that  
 7 should be type 2-B connections. And on line 20 instead  
 8 of "Britton" that should be Bowdle. And on page 3,  
 9 line 7 where it says "type 1" that should be type 2.  
 10 Line 8, "Britton" should be Bowdle. And line 11, "type  
 11 2-B" should be type 1.  
 12 Q Any other corrections or additions?  
 13 A No.  
 14 MR. SMITH: It was Britton Bowdle in  
 15 line 8 too?  
 16 MS. POLLMAN ROGERS: That's correct.  
 17 Q Randy, with those additions and corrections, if I asked  
 18 you the questions in these exhibits today would you  
 19 respond in the same way?  
 20 A Yes.  
 21 Q And would you please give us a brief summary of your  
 22 prefiled testimony?  
 23 A Basically what we try to convey to the Commission is  
 24 implementing LNP as we understand it today is very  
 25 costly and unfair to the ILEC. There are a lot of

1 issues that haven't been resolved by the FCC relating  
 2 to the transport of the traffic and the calling scope,  
 3 the routing and rating of the calls, and if we were  
 4 forced to implement it and deal with all of those  
 5 costs, it would put us at an unfair economic -- or  
 6 competitive advantage -- disadvantage and it would be  
 7 very costly for our customers.  
 8 MS. POLLMAN ROGERS: I would offer  
 9 Venture Exhibits 1 and 2 into the record.  
 10 MR. COIT: No questions.  
 11 MS. POLLMAN ROGERS: I'm offering  
 12 into evidence. No objections?  
 13 MR. COIT: No objections. Excuse  
 14 me. I'm busy.  
 15 MR. SMITH: Venture 1 and Venture 2  
 16 are admitted.  
 17 MS. POLLMAN ROGERS: I would tender  
 18 the witness for cross-examination.  
 19 MR. COIT: No questions.  
 20 MR. SMITH: Mr. Wieczorek.  
 21 CROSS-EXAMINATION  
 22 BY MR. WIECZOREK:  
 23 Q Thank you, Mr. Smith, Commissioners. Mr. Houdek, does  
 24 Venture have any switches currently that are LNP  
 25 capable?

1 A I believe the switching system has some of the  
 2 capability but not all of it.  
 3 Q What do you mean by some of it, if you can tell me?  
 4 A You know, I'd rather have you ask John DeWitte. We  
 5 ordered it through him. It was the last switch we  
 6 bought, and I think maybe some of it came with a  
 7 package we bought but it's technically I'm not able to  
 8 answer.  
 9 Q Might have come with already the software installed?  
 10 A I don't think it was the software, but again, please  
 11 ask John.  
 12 Q All right. How many exchanges do you have?  
 13 A 26.  
 14 Q Now in looking through your testimony you list the  
 15 towns and having looked at your area before, you have a  
 16 very significant -- you don't have a contiguous company  
 17 service area; is that fair?  
 18 A Yes.  
 19 Q In fact, you have part of your service area up in the  
 20 northeast corner which is separated by well over 100  
 21 miles from your nearest -- your other service area.  
 22 Wouldn't you agree?  
 23 A Yeah.  
 24 Q In that northeast corner, how many exchanges do you  
 25 have up there?

1 A I don't know. If you know off the top, I'll probably  
 2 agree with you.  
 3 Q It's not in your testimony. Is there a reference -- at  
 4 least that you don't break it out. I see that you're  
 5 looking at an exhibit to your testimony. Would that  
 6 give you the information?  
 7 A About seven.  
 8 Q Okay. You have seven switches up there or exchanges?  
 9 A (Witness nods head)  
 10 Q Now you cite to some of Mr. DeWitte's cost testimony  
 11 and you were present I believe yesterday during some of  
 12 Mr. DeWitte's testimony; is that correct?  
 13 A Uh-huh.  
 14 Q Yes?  
 15 A Yes.  
 16 Q Thank you. During that testimony you understand that  
 17 his install cost takes five cell companies times the  
 18 number of exchanges you have times the cost to do what  
 19 he calls a POI, point of interconnect, to each of those  
 20 exchanges from each one of those companies; correct?  
 21 A I believe that's what he testified to.  
 22 Q Okay. And on page -- your direct, page 3, line 18, are  
 23 you there?  
 24 A Yes.  
 25 Q You list those five companies; correct?

1 A On my direct?  
 2 Q Yes. What I have as page 3 of the direct that's been  
 3 provided to me, line 18.  
 4 A I had Mr. DeWitte's too.  
 5 Q Well, it's catchy. Do you have any modifications to  
 6 Mr. DeWitte's testimony while you have it in front of  
 7 you.  
 8 A Okay.  
 9 Q Got it?  
 10 A Yes.  
 11 Q All right. And those five companies you list are  
 12 Verizon Wireless, Western Wireless, Sprint PCS, RCC,  
 13 and Nextel; correct?  
 14 A Correct.  
 15 Q Did you give those five companies to Mr. DeWitte to do  
 16 his calculations -- or identify those?  
 17 A I or my staff.  
 18 Q Okay. Now you understand that RCC doesn't even have a  
 19 license anywhere in your service area except for that  
 20 northeast corner; correct?  
 21 A Right. But I expect there would be another carrier  
 22 that will have a license in the rest of the service  
 23 area.  
 24 Q Well, you understand that Mr. DeWitte assumed RCC would  
 25 need a point of interconnect to every one of your

1 exchanges.  
 2 A RCC or another carrier. I'm not sure if he relied just  
 3 on RCC. You maybe could ask Mr. DeWitte that.  
 4 Q Do you know of any other carriers that have licensing  
 5 in your non -- in your area outside of the northeast  
 6 corner besides Verizon and Western Wireless?  
 7 A It's my understanding that Nextel and Sprint have  
 8 state-wide licenses and again there's another license  
 9 there. Somebody owns it.  
 10 Q You don't know who it is?  
 11 A No.  
 12 Q But you didn't identify that in your direct?  
 13 A No. Just five carriers.  
 14 Q Okay. You would agree with me as to RCC, there's no  
 15 reason for RCC to have a point of interconnection to  
 16 any of your exchanges outside the northeast corner?  
 17 A Unless he worked out a deal with the other carrier.  
 18 Q Well, you agree they don't have a license even over an  
 19 area covered by 19 of your exchanges?  
 20 MS. POLLMAN ROGERS: Object, this  
 21 has been asked and answered.  
 22 MR. SMITH: Overruled.  
 23 Q You agree RCC doesn't have a license to broadcast to  
 24 provide services over 19 of your exchanges.  
 25 A Okay.

1 Q You agree?  
 2 A Yes.  
 3 Q Do you have any knowledge that Sprint, Nextel, or this  
 4 other third-party cell company that you don't know who  
 5 it is are going to provide services within the next  
 6 five years over those 19 exchanges?  
 7 A I believe that they will.  
 8 Q Well, you believe they will. Do you have any knowledge  
 9 to base that on?  
 10 A These carriers have made statements that they plan to  
 11 offer service.  
 12 Q When?  
 13 A Soon, I guess. They didn't give me a precise date.  
 14 Q But you don't know whether soon to them is two years,  
 15 three years, or five years out?  
 16 A I don't know.  
 17 Q You would agree with me as to those 19 carriers there  
 18 would be no reason to install point of interconnects  
 19 until they actually provide service -- or excuse me, to  
 20 those three carriers over those 19 exchanges?  
 21 A No. But it's my understanding that once the surcharge  
 22 is established I will be unable to change it so we  
 23 wanted to take that into effect.  
 24 Q Yeah. So are you telling this Commission you're going  
 25 to when you set your surcharge set it so it includes



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1 numbers of companies that might at some time provide  
 2 service in your area and you're going to pass that cost  
 3 on to your customer before you incur it?  
 4 A No. I didn't say that.  
 5 Q Okay.  
 6 A We wanted to establish what the costs would be.  
 7 Q Okay. So it doesn't establish a surcharge; correct?  
 8 A I can't establish a surcharge.  
 9 Q Well, the calculations provided by Mr. DeWitte as to  
 10 that per-line cost, you agree with me that would be  
 11 inappropriate to use that as a surcharge base for your  
 12 customers?  
 13 A No. I don't agree with you.  
 14 Q So if today you are ordered to provide LNP, it's your  
 15 testimony that you can use that to establish a  
 16 surcharge even though you don't have to incur that  
 17 expense and you have no idea when you're going to have  
 18 to incur that expense?  
 19 A I would testify I would charge whatever the Commission  
 20 deemed appropriate.  
 21 Q But you would request a surcharge including 57 extra  
 22 point of interconnects unnecessary at that time?  
 23 A Can you repeat the question.  
 24 Q You would request a surcharge including the cost of 57  
 25 interconnects not necessary at that time?

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1 A What I would ask for is a surcharge that covers my  
 2 costs and if they change, the ability to change the  
 3 surcharge.  
 4 Q I'm just trying to get clear on the record the numbers  
 5 that you've had Mr. DeWitte create do not accurately  
 6 reflect what currently exists in those 19 exchanges  
 7 today?  
 8 MS. POLLMAN ROGERS: I'm going to  
 9 object to that question. The question was that  
 10 Mr. Houdek had Mr. DeWitte create. I don't believe  
 11 that that's an accurate statement of what happened  
 12 and I object to the question and the form of it.  
 13 MR. SMITH: Can you rephrase the  
 14 question, Mr. Wieczorek?  
 15 MR. WIECZOREK: I'm not sure this is  
 16 rephrasing but I'll restate.  
 17 Q Do you agree the numbers that Mr. DeWitte created do  
 18 not reflect the actual factual situation that exists  
 19 over those 19 exchanges today?  
 20 A And I don't want to belabor this either, but when you  
 21 say factual, if five carriers request LNP, then I think  
 22 these accurately reflect the costs that we would incur.  
 23 Is that what you're asking?  
 24 Q Well, you haven't had five carriers request LNP, have  
 25 you?

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1 A That's correct.  
 2 Q You have not had five carriers?  
 3 A We have not had five bona fide requests.  
 4 Q Of the bona fide requests you've had one from Western;  
 5 correct?  
 6 A Yes.  
 7 Q You've had one from Verizon; correct?  
 8 A Correct.  
 9 Q You've had one from RCC; correct?  
 10 A Correct.  
 11 Q And RCC only covers the northeast corner, those seven  
 12 switches; correct?  
 13 A I think that's correct.  
 14 Q So if you had to provide LNP for the three companies  
 15 that have actually filed bona fide requests for  
 16 service, you would not have to provide 57 of the POIs  
 17 that Mr. DeWitte has taken into consideration in his  
 18 cost analysis under his plan?  
 19 A I don't know if 57 is the right number, but it would be  
 20 less than the total.  
 21 Q Well, you said there was 19 exchanges outside that  
 22 northeast corner. Can you take that times three?  
 23 A I'd just as soon not. You can do the math.  
 24 MR. WIECZOREK: Well, Commissioner  
 25 Hanson has been correcting my math, but I assume

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1 it's 57.  
 2 Q And that install cost, I believe Mr. DeWitte set that  
 3 install cost at \$4,000 per POI. Do you recall that?  
 4 A I remember hearing that, yes.  
 5 Q Okay. I can try the math again or you can do it.  
 6 A Just as soon not.  
 7 Q Okay. So it would be \$4,000 times 57 that his numbers  
 8 clearly overstate the current situation you're in;  
 9 correct?  
 10 A Assuming that we have no more requests for LNP.  
 11 Q I'm trying to do the math, but I'll just rest on 4  
 12 times 57.  
 13 A Thank you.  
 14 Q Now you also heard Mr. DeWitte testify that he doesn't  
 15 think the type 1 number issues caused any problems in  
 16 South Dakota. Do you remember hearing him say that?  
 17 A I don't, but I don't have any reason to doubt you.  
 18 Q Okay. I believe it was his term in his prefile  
 19 testimony is it hasn't hampered consumers in  
 20 South Dakota.  
 21 You know for a fact there's been problems  
 22 with porting wireless-to-wireless numbers because of  
 23 the type 1 issue, don't you?  
 24 A I believe it was a type 1 issue.  
 25 Q Yeah. Your Gettysburg exchange has had problems

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1 porting wireless-to-wireless ports because of the type  
 2 1 issue, hasn't it?  
 3 A We've had problems. I don't know if I can attribute it  
 4 to the type 1 but yes, we've had problems.  
 5 Q Are you familiar with the FCC's Century Tel decision?  
 6 MS. POLLMAN ROGERS: I object to  
 7 that question. It's an inaccurate statement of  
 8 what that is. That is not an FCC decision.  
 9 MR. WIECZOREK: All right.  
 10 Q I'll ask you, are you familiar with the Century Tel  
 11 decision?  
 12 MS. POLLMAN ROGERS: I still object.  
 13 It's not a decision. It's not a final decision.  
 14 A The NAL?  
 15 Q Yes.  
 16 A Vaguely.  
 17 Q Have you reviewed that decision?  
 18 A You know, I read part of it, but I wouldn't say I'm an  
 19 expert on it.  
 20 Q Okay. Have you reviewed that in the context of this  
 21 type 1 problem -- or this porting problem? I  
 22 understand you weren't sure it was a type 1 problem.  
 23 A No, I guess.  
 24 Q Now how long have you been in the telecommunications  
 25 business?

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1 A About 18 years.  
 2 Q So you were in the telecommunications business when the  
 3 number portability -- when it became clear that number  
 4 portability was going to be required someday in 1996?  
 5 Well, in 1996 portability became an issue. Would you  
 6 agree?  
 7 A Yeah. That was part of the Telecom Act.  
 8 Q All right. And then between 1996 and the February --  
 9 excuse me, November 10 of 2003, did Venture do anything  
 10 to investigate the feasibility or best cost way to  
 11 provide LNP?  
 12 A Yeah. We've had numerous meetings and discussions  
 13 regarding LNP.  
 14 Q Before the November 10, 2003 decision?  
 15 A Oh, I know it was discussed.  
 16 Q Okay. Your rebuttal testimony at page 1, line 11 talks  
 17 about how you took months after the November 10, 2003  
 18 date to investigate the cost and processes involved  
 19 with LNP. That's your rebuttal testimony, page 1, line  
 20 15, not Mr. DeWitte's. Okay. Do you see that?  
 21 A Yep.  
 22 Q Now in investigating those costs you would agree with  
 23 me that your investigation did not include contacting  
 24 Western Wireless at any time to discuss possible  
 25 routing alternatives?

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1 A I personally didn't contact Western Wireless.  
 2 Q And nobody from your company did, to your knowledge?  
 3 A I think Rich Coit had conversations with people from  
 4 Western Wireless.  
 5 Q I can't call Mr. Coit in this proceeding but I'm  
 6 asking, he's not with your company; correct?  
 7 A No.  
 8 Q Okay. So Mr. Coit or SDTA might have had some contact.  
 9 A Correct.  
 10 Q Okay. But you in your investigation, your complete  
 11 investigation on the costs, you never had a contact  
 12 with Western Wireless, did you, or your company?  
 13 A I don't believe so.  
 14 Q And besides the cost analysis done by Mr. DeWitte,  
 15 you're not presenting any other cost options to this  
 16 Commission for LNP routing, are you?  
 17 A No.  
 18 Q And, in fact, you didn't investigate any other routing  
 19 options?  
 20 A I don't know if investigate is the right word. We've  
 21 talked about other routing options.  
 22 Q Have you cost out any other routing options?  
 23 A I don't know what you mean by cost out. We looked at  
 24 the rules as we understood them, and determined that  
 25 these were going to be our costs.

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1 Q You understand that under the federal law you're  
 2 allowed to recover costs incurred in implementing line  
 3 number portability; right? You can do an end-user  
 4 surcharge to recover your costs for deployment of LNP;  
 5 correct?  
 6 A For some of them.  
 7 Q Are there some costs you're claiming are not  
 8 recoverable?  
 9 A It was my understanding that some of the recurring  
 10 costs were not recoverable.  
 11 Q Do you know which ones?  
 12 A No.  
 13 Q You said something to the effect in your opening --  
 14 excuse me, your summary about there being an unfair  
 15 competitive advantage of LNP. Do you understand that  
 16 if you become LNP compliant that people -- cell phone  
 17 users will be able to port their numbers back to you  
 18 too?  
 19 A I didn't think that the FCC allowed for  
 20 wireless-to-wireline porting yet.  
 21 Q You're not presenting to this Commission any  
 22 demographic information on the income or average income  
 23 of the customers in your areas, are you?  
 24 A I don't believe that was part of my testimony.  
 25 Q Okay. And while I'm thinking about this, you're not

1 claiming that LNP is technically infeasible, are you?  
 2 A Technically, no.  
 3 Q You collect high-cost support through USAC; right?  
 4 A Yes.  
 5 Q And you, in fact, collect high-cost -- you collect  
 6 switching support too.  
 7 A Okay.  
 8 Q You don't know?  
 9 A Yes, we do.  
 10 Q Okay. And you submit to USAC on an annual basis your  
 11 cost investments and your switches; correct?  
 12 A After the fact.  
 13 Q Right. And they build that into their cost analysis  
 14 for your support.  
 15 A Repeat that.  
 16 Q They build your costs into their analysis in  
 17 calculating your support; correct?  
 18 A USAC does, yes.  
 19 Q And it would be your plan to submit to USAC your costs  
 20 associated with upgrades to LNP.  
 21 A To the extent I can. I don't know if all of them are  
 22 eligible.  
 23 Q Last year how much did you collect in local switching  
 24 support from USAC?  
 25 MS. POLLMAN ROGERS: I'm going to

1 object to that as not relevant to this proceeding  
 2 and it's also way beyond the scope of his  
 3 evidence -- or direct submitted in this Docket.  
 4 MR. SMITH: Overruled.  
 5 A I don't have that information available.  
 6 Q Is it over 600,000?  
 7 MS. POLLMAN ROGERS: Asked and  
 8 answered. He just said he didn't have it  
 9 available. I object.  
 10 MR. SMITH: Overruled.  
 11 A I don't know. I mean, I don't have the information.  
 12 Q You have no idea what range you're collecting?  
 13 MS. POLLMAN ROGERS: Same objection.  
 14 He's answered it. It's argumentative.  
 15 MR. SMITH: Overruled. Randy, if  
 16 you can, answer.  
 17 A What's the question?  
 18 Q Do you know what you collect annually -- I just want a  
 19 range, an estimate -- in local switch support,  
 20 switching support?  
 21 A I honestly don't want to say. I've got a total number  
 22 of universal service.  
 23 Q Why don't you just give me the total number then.  
 24 A Between 2 and \$3 million.  
 25 Q All right. You talk about deployment of broadband in

1 your testimony, that if you had to actually pay out  
 2 money to do LNP that might delay your broadband  
 3 deployment?  
 4 A Yes.  
 5 Q It's your intent to charge for anybody, any of your  
 6 customers who use broadband; correct?  
 7 A Am I going to charge my customers who use broadband?  
 8 Q Yeah.  
 9 A Yes.  
 10 Q You reviewed Mr. Williams' testimony in this case;  
 11 correct?  
 12 A Very briefly. No, I wouldn't say I've read the whole  
 13 thing.  
 14 Q Well, you respond to his testimony and you actually  
 15 call some of his testimony -- you said it was submitted  
 16 in bad faith.  
 17 A Right.  
 18 Q Did you review his testimony as to what his proposals  
 19 were for routing calls to LNP and how it would save you  
 20 hundreds of thousands of dollars if you routed it that  
 21 way?  
 22 A Are you referring to this --  
 23 Q That routing plan.  
 24 A -- Etcha Sketch? Yes. I'm vaguely familiar with it.  
 25 Q You would agree with me that if you had to install LNP,

1 you would prefer to save that \$625,000 that Mr. DeWitte  
 2 has projected in install costs, correct, and install it  
 3 some cheaper way?  
 4 A No. I don't think I would -- I'm not quite sure what  
 5 you're asking, but, no, I wouldn't agree it would be  
 6 better to do it the way Mr. Williams has described.  
 7 Q But you've not investigated that way at all anyway,  
 8 have you?  
 9 A Had discussions regarding it.  
 10 Q But you decided not to pursue it?  
 11 A To do it that way wouldn't cover our costs.  
 12 Q So because that way wouldn't cover your cost, you go  
 13 with the way Mr. DeWitte proposes, which entails -- and  
 14 I believe you've been looking at Mr. DeWitte's  
 15 testimony so it's attached to his rebuttal if you want  
 16 to refresh your memory, but his rebuttal 3A entails  
 17 \$625,000 in install costs. Do you remember that?  
 18 A I believe it's in here.  
 19 Q Okay. And a monthly recurring cost for transport alone  
 20 of \$220,000.  
 21 A Which page are you on?  
 22 Q I'm on his rebuttal testimony, 3A. That's his direct.  
 23 MS. POLLMAN ROGERS: What was your  
 24 question, Mr. Wiecezorek?  
 25 Q I asked him to look at 3A. Here's a copy of 3A. I'll

1 just do it this way, to Mr. DeWitte's rebuttal  
2 testimony. And he had asked -- or he had made the  
3 statement that under Western Wireless's approach they  
4 would lose some money or they couldn't recover all of  
5 their costs. So the questions I'm asking revolve  
6 around the fact that under the plan that they're  
7 presenting to the Commission here, they are looking at  
8 install costs of \$625,000.

9 Now if the install costs under Mr. Williams'  
10 proposal was only \$10,000, you would only spend \$10,000  
11 for install costs and you would much prefer to only do  
12 that rather than spend 625,000, wouldn't you?

13 A That's probably a question better asked of Mr. DeWitte.

14 Q Well, you're the general manager, and you're the one  
15 who makes decisions on how to spend money for your  
16 company; correct?

17 A I'm one of the people that makes the decisions.

18 Q Okay. Well, as the general manager who prides himself  
19 on being efficient and cost-effective, you would agree  
20 that you'd much prefer to spend \$10,000 to complete  
21 something than 625,000, wouldn't you?

22 A Not if that meant I was to configure my network in a  
23 way that would force me to carry my competitor's  
24 traffic for free and not recover my costs and mess up  
25 my whole revenue stream. I guess the answer would be

1 no.

2 Q Okay. So carry your competitor's traffic for free, if  
3 you were carrying your competitor's traffic for free,  
4 how much do you think that would cost a month?

5 A I would have no idea.

6 Q What's a minute of traffic? I think we talked about a  
7 dime clearly for a minute of traffic would cover any  
8 traffic you'd carry for free. Wouldn't you agree?

9 A Restate your question.

10 Q A dime of cost per minute for this traffic you'd carry  
11 for free is a high enough number it would cover any  
12 traffic costs, wouldn't you agree?

13 A Actually, no, my costs are higher than that. That  
14 might be approaching the LECA average but I'm a higher  
15 cost company than that.

16 Q Okay. What's your cost?

17 A More than that, 18, 20 cents.

18 Q Okay. Let's say 20 cents because even easier to do my  
19 math. At 20 cents for monthly recurring cost under  
20 your plan, you're going to spend \$220,000 a month under  
21 the way you've designed LNP. Do you see that under  
22 Mr. DeWitte's testimony?

23 A I see that number.

24 Q So if you assume your cost is 20 cents, you would have  
25 to carry for free over 1.1 million minutes of free

1 traffic before you'd even reach the cost of your  
2 proposal, wouldn't you agree?

3 A I'm not going to do the math. I guess if you've done  
4 it, then I have no reason to doubt it. Of course, when  
5 you start carrying all of those extra minutes, if I can  
6 elaborate, that's going to reduce your access, it's  
7 going to reduce your toll, it's going to change the  
8 ratios of local calling.

9 Q So you'd much rather spend the \$220,000 a month;  
10 correct?

11 A I would rather do it in a way that protects the  
12 integrity of your company.

13 Q You're willing to spend \$2.5 million just in monthly  
14 recurring costs alone in the first year to protect the  
15 integrity of your company?

16 A It seems kind of foolish to spend that kind of money on  
17 something like LNP when it's -- when there's so little  
18 demand for the LNP.

19 Q You're right. I agree, your numbers are foolish.

20 MS. POLLMAN ROGERS: I object to  
21 that, ask that it be stricken. That's a  
22 misstatement of what the witness said.

23 MR. SMITH: Sustained.

24 MR. WIECZOREK: That's all I have  
25 for this witness.

1 MR. SMITH: Thank you. Mr. Gerdes.  
2 CROSS-EXAMINATION

3 BY MR. GERDES:

4 Q Good morning, Mr. Houdek.

5 A Good morning.

6 Q Again. We've seen each other before in this forum, I  
7 think.

8 A Yes. I'm afraid of that.

9 Q On page 2 of your prefiled testimony, your direct  
10 prefiled testimony you list your EAS arrangements?

11 A Yes.

12 Q I'd just like to ask you a couple of hypothetical  
13 questions about those arrangements. Do you have any  
14 plans to go into the Huron market as a CLEC?

15 A No.

16 Q If you did go into the Huron market you would expect,  
17 of course, to make arrangements with Qwest for LNP  
18 between your company and Qwest; correct?

19 A You know, we haven't even considered that.

20 Q Okay. So you don't know what you would expect?

21 A Right.

22 MR. GERDES: All right. No further  
23 questions.

24 MR. SMITH: Ms. Wiest.

25 MS. WIEST: Thank you.

CROSS-EXAMINATION

1  
2 BY MS. WIEST:  
3 Q Mr. Houdek, you have 26 exchanges; is that correct?  
4 A Roughly. We serve a number of towns that occasionally  
5 I miscount.  
6 Q I think if you look at page 1 of your direct, I believe  
7 that's 26 exchanges when you count those up.  
8 A Okay. I can make that correction.  
9 Q No. I'm not saying anything was incorrect.  
10 A Okay.  
11 Q This is just leading me to my next question. Are you  
12 aware that your witness, Mr. DeWitte, used 25  
13 exchanges?  
14 A No.  
15 Q And I'm just trying to clarify this because I think for  
16 the record, do you think that could be because Lebanon  
17 is part of Gettysburg?  
18 A That's probably it.  
19 Q Okay. And what is your current local rate?  
20 A We've got a number of them. I've supplied those to the  
21 staff.  
22 Q Can you give me a range?  
23 A Residential from 11.50 to 15.75, combined business  
24 residence from 13.50 to 16.70, and business from 18.50  
25 to 29.65.

1 Q Thank you. Just to clarify something Mr. Wiczorek was  
2 asking you about, is it correct to say that Verizon and  
3 Western Wireless, do they serve your entire area or  
4 not?  
5 A You know, I think they do. I notice my phone goes on  
6 roam a lot in the northeast when I'm on Verizon but it  
7 all comes on the same bill.  
8 Q It's just RCC that serves part of the currently serving  
9 carriers?  
10 A I think that's right.  
11 Q To your knowledge, Sprint and Nextel do not provide any  
12 service?  
13 A To my knowledge.  
14 Q To your knowledge. Okay. After your corrections that  
15 you made, I believe, on page 1 of your direct would it  
16 be accurate to say that you currently have four then  
17 type 2-B connections?  
18 A You know, it might be. I guess I haven't thought about  
19 that since I made my corrections.  
20 Q On line 18 you talk about VCC as one type 2-B with  
21 Western Wireless and you change that to three type 2-B  
22 with Verizon?  
23 A Okay.  
24 Q You're not sure if that's all of them or not?  
25 A I don't think it's more than four.

1 Q Okay. And then when you go on and you talk about the  
2 fact that -- let's see, looking on line 21, you say --  
3 beginning at line 20 that you provide blocks of  
4 numbers, that the carriers are evaluating and replacing  
5 the type 1 connections.  
6 Do you know how many type 1 connections  
7 you're talking about?  
8 A I don't.  
9 Q Can you explain why the carriers are evaluating and  
10 replacing those?  
11 A That's been my understanding in conversations with our  
12 consultants.  
13 Q And how many BFRs did you receive?  
14 A I believe, three. I think they're all an actual BFR  
15 but there was some question on some of them earlier.  
16 But I think, three.  
17 Q Did you respond to any of those?  
18 A By respond? I didn't --  
19 Q Did you respond in writing to any of those BFRs?  
20 A I think we acknowledged receipt of the letter.  
21 Q Okay.  
22 A I guess I'm --  
23 Q And you're familiar with Mr. DeWitte's costs and his  
24 methods for transport; correct, what he used for your  
25 company?

1 A Yes. Staff worked with Mr. DeWitte more than I did.  
2 Q Okay. If the Commission were to order LNP and your  
3 company was responsible for a transport, do you believe  
4 at that point that you would then explore more  
5 efficient and less costly options?  
6 A You know, we'd do it again in the most efficient way  
7 that we could that would cover our costs.  
8 Q That would cover your costs. And going to your  
9 rebuttal page 2, line 4.  
10 A Okay.  
11 Q Starting with "Pursuant to that agreement Venture did  
12 not agree to route traffic destined for Western  
13 Wireless to the serving tandem, " you're talking about  
14 the Qwest serving tandem; is that correct?  
15 A Yes.  
16 Q Is there any reason why you could not agree to do that?  
17 A I think we have contractual arrangements that prevents  
18 us from doing that but I'd like to review that and get  
19 back to you, if I could. I don't have --  
20 Q Contractual arrangements with whom?  
21 A SDN and possibly Qwest.  
22 Q That would prevent you from connecting with them?  
23 A No. We connect with Qwest, but the delivery of our  
24 traffic -- some of our traffic is committed to SDN I  
25 guess is --

1 **Q** But LNP traffic wouldn't be committed to SDN, would it?  
 2 **A** Let me reread this.  
 3 **Q** Okay.  
 4 (Witness examines document)  
 5 **A** Okay. What's your question?  
 6 **Q** My question is, you stated that Venture did not agree  
 7 to route traffic destined for Western Wireless to the  
 8 serving tandem. So my question is, why could you not  
 9 agree to that?  
 10 **A** Our Interconnection Agreement with Western Wireless  
 11 prevents that. We deliver local calls to the local  
 12 calling area. Everything else is a toll call.  
 13 **Q** Are you aware the FCC states LNP does not require  
 14 Interconnection Agreements?  
 15 **A** Vaguely, yes.  
 16 **Q** So LNP traffic wouldn't necessarily have to be subject  
 17 to an Interconnection Agreement, would it?  
 18 **A** Maybe not but a toll call is still a toll call. I  
 19 mean, if it's not a local call, it has to go to an IXC.  
 20 MS. WIEST: I have nothing further.  
 21 Thank you.  
 22 MR. SMITH: Did the Commissioners  
 23 have questions?  
 24 CHAIRMAN SAHR: Yes, I do.  
 25 MR. SMITH: Chairman Sahr.

1 CHAIRMAN SAHR: Good morning.  
 2 THE WITNESS: Good morning.  
 3 CHAIRMAN SAHR: One of the issues  
 4 that came up during your testimony was the question  
 5 of which carriers are serving what part of  
 6 South Dakota on the wireless side of things, and I  
 7 think it may be something you can't answer but we  
 8 might hear from another witness, but my  
 9 understanding is that RCC and Verizon use the --  
 10 they're using the same spectrum that the B side of  
 11 the cell phone spectrum and so RCC would have the  
 12 licenses in the northeast corner of the state,  
 13 Verizon would have the licenses in most of the rest  
 14 of the state, although CommNet has some licenses  
 15 out there as well on the B side of things. And  
 16 more than likely if you can use your Verizon phone  
 17 in the RCC area, it's probably because they have an  
 18 agreement with RCC, I would imagine.  
 19 THE WITNESS: I suspect you're  
 20 right.  
 21 CHAIRMAN SAHR: So when we talk  
 22 about the number of providers in one area, I would  
 23 think that RCC and Verizon for the purposes of what  
 24 we're discussing today would be mutually exclusive  
 25 because they don't have overlapping licenses in

1 those markets.  
 2 THE WITNESS: Okay.  
 3 CHAIRMAN SAHR: Do you have any idea  
 4 if that's an accurate statement?  
 5 THE WITNESS: No.  
 6 CHAIRMAN SAHR: Mr. DeWitte will.  
 7 But that's certainly my understanding of it, and I  
 8 don't profess that I would be 100 percent accurate  
 9 on that.  
 10 One of the issues that's come up with the  
 11 tandem routing options that has been outlined by  
 12 Mr. Williams is phantom traffic; is that right, or  
 13 the potential for phantom traffic under that  
 14 option? Or excuse me, that's one of the things  
 15 that you've outlined as a potential problem with  
 16 using that type of option.  
 17 THE WITNESS: That's probably a  
 18 question better answered by Mr. DeWitte.  
 19 CHAIRMAN SAHR: Thank you. One of  
 20 the things that has been discussed is a possibility  
 21 of trying to form some type of working group to  
 22 look at these issues and more cost-effective ways  
 23 of implementing LNP. Is that something that you  
 24 would be interested in participating in?  
 25 THE WITNESS: I think it's a great

1 idea.  
 2 CHAIRMAN SAHR: What would you think  
 3 would be the time frame assuming we can get the  
 4 right people to the table and get appropriate  
 5 consultants hired and so on and so forth for  
 6 analyzing some of the possible options?  
 7 THE WITNESS: I know that  
 8 Mr. DeWitte said 18 months to two years, and I hope  
 9 that's long. I'd like to see it less than that.  
 10 But just negotiating an Interconnection Agreement  
 11 took months and months, and in getting all of the  
 12 parties to agree would be very difficult.  
 13 You know, if they're very motivated I would  
 14 think we could have some work done in a six-month  
 15 time frame. Whether or not it was completed and  
 16 agreed to by everybody in that time, I'm doubtful.  
 17 CHAIRMAN SAHR: And I'd have to  
 18 check with our attorneys on whether or not a  
 19 complete agreement would be necessary or if our  
 20 Commission Order could take care of the issue if  
 21 there seems to be a reasonable alternative that's  
 22 acceptable to the Commission.  
 23 One of the other issues that certainly we're  
 24 focusing on, it's what we are legally charged to  
 25 look at is we're to determine whether or not

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1 there's a need to avoid a significant adverse  
 2 economic impact on users of telecommunications  
 3 services generally or to avoid imposing a  
 4 requirement that is unduly economically burdensome.  
 5 And certainly Mr. DeWitte has supplied  
 6 information that certainly that you would propose  
 7 be used to support those propositions. The  
 8 question I would have is at what point in time,  
 9 whether the cost is borne by you as the provider or  
 10 as a pass-through to the consumer, at what point in  
 11 time do you think we're at -- or what dollar amount  
 12 are we at where it's no longer a significant  
 13 adverse economic impact or unduly economically  
 14 burdensome?  
 15 THE WITNESS: I think that's going  
 16 to vary based on the consumer. Some of our lower  
 17 income or elderly people that don't have a cell  
 18 phone, don't ever care to have a cell phone,  
 19 certainly don't care to port numbers. You know,  
 20 you put 25 cents on their bill, that's too much.  
 21 Maybe some of our big, wealthier customers or  
 22 businesses, you could throw another dollar or two  
 23 on there and they might not even raise their  
 24 eyebrows. But again, it's going to vary for  
 25 everybody.

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1 CHAIRMAN SAHR: Have you discussed  
 2 whether or not you intend to pass through or eat  
 3 all or part of the costs as the provider and, you  
 4 know, recognizing that you serve your members so to  
 5 a certain extent there's some similarities it just  
 6 depends on which pot it comes out of, but have you  
 7 discussed what your plans would be as far as if you  
 8 were required to have LNP capabilities?  
 9 THE WITNESS: We've had discussions  
 10 and, you know, there's concerns if you throw too  
 11 big of a charge on a bill, you're begging the  
 12 customer to drop your service. And obviously that  
 13 long-term impact on that, on your company in that  
 14 regard is suicide. But, again, we're co-opped so  
 15 if we don't cover our costs, we reduce our margins  
 16 and, you know, we could go out of business that way  
 17 as well.  
 18 CHAIRMAN SAHR: And there are what  
 19 have been broken down into monthly recurring and  
 20 nonrecurring costs, and have you discussed how to  
 21 handle those with a nonrecurring cost? Would that  
 22 be a one-time charge, here's your \$36 charge on  
 23 your bill and next month you wouldn't have any  
 24 charge or have you talked about how to break that  
 25 out over time?

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1 THE WITNESS: No. We're taking it  
 2 one day at a time.  
 3 CHAIRMAN SAHR: Because as a whole,  
 4 you know, certainly on one person's bill for a  
 5 particular month the entire cost would obviously  
 6 close to triple the amount of their normal monthly  
 7 service; correct?  
 8 THE WITNESS: Exactly. We've got  
 9 faith that the rules will address the transport  
 10 costs. The FCC, when they issued the Order, they  
 11 realized the different characteristics of rural  
 12 phone companies and said they were going to address  
 13 the transport costs and the calling scope issues  
 14 and routing and rating and they haven't.  
 15 I've got faith that somebody's going to  
 16 recognize that.  
 17 CHAIRMAN SAHR: And this again may  
 18 be a question better served for Mr. DeWitte, but is  
 19 there anything that in any of your particular  
 20 changes would make it easier for you to implement  
 21 LNP or harder if we're going to look at to have an  
 22 exchange-by-exchange analysis?  
 23 And I think Mr. Wiczorek might have asked you  
 24 a question about this. Some of them have updated  
 25 switches to the point where it would be less

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1 burdensome than it would be, for instance, in  
 2 another exchange?  
 3 THE WITNESS: Again, this is a  
 4 better question for Mr. DeWitte because he spec'd  
 5 the switch when we ordered it, but I think Sisseton  
 6 has more capabilities than the other towns. But,  
 7 again, it's not ready to be LNP compatible.  
 8 COMMISSIONER BURG: Just a couple I  
 9 have. Did I hear you right, did you say once you  
 10 establish a surcharge you cannot change it?  
 11 THE WITNESS: That's my  
 12 understanding.  
 13 COMMISSIONER BURG: So what you're  
 14 having to do here is anticipate what your maximum  
 15 cost would be, establish that surcharge even if it  
 16 were greater than what the current charge would be  
 17 because you're not going to be able to adjust it?  
 18 THE WITNESS: That's my  
 19 understanding is I don't know if that's something  
 20 you folks or the FCC has to determine.  
 21 COMMISSIONER BURG: And I'm sure  
 22 it's going to be hard to vary a surcharge up and  
 23 down on a constant basis. By the way the questions  
 24 have been asked from numerous witnesses, I've heard  
 25 that the Western Wireless feels there's a huge

1 benefit to LNP.  
 2 What benefit do you see to your customers of  
 3 LNP?  
 4 THE WITNESS: Well, none, because as  
 5 I understand it, you can't port from a wireless to  
 6 a wireline, which is inherently unfair. I suspect  
 7 that the customers, you know, if they studied the  
 8 calling plans on some of the wireless carriers  
 9 could figure out a way to bypass the toll and  
 10 access network, which would be good for the  
 11 customer short-term but would be bad for our  
 12 company long-term.  
 13 COMMISSIONER BURG: What percent of  
 14 your customers do you think would desire to port  
 15 their wireline number?  
 16 THE WITNESS: Less than 1 percent.  
 17 I haven't done a survey.  
 18 COMMISSIONER BURG: What's the  
 19 nature of the customers of your companies? Do they  
 20 give up their wireline for wireless?  
 21 THE WITNESS: I don't believe so.  
 22 There's probably been a few that have substituted  
 23 service, but I would guess most people are like me  
 24 and, you know, it's more of a complimentary product  
 25 than a substitution.

1 COMMISSIONER BURG: So most of them  
 2 have both wireline and wireless that have a  
 3 wireless phone?  
 4 THE WITNESS: That's what I believe.  
 5 COMMISSIONER BURG: And to get that  
 6 wireless they would not port their number that they  
 7 currently have for the wireline?  
 8 THE WITNESS: That's what I believe.  
 9 COMMISSIONER BURG: So you don't  
 10 really see much opportunity for the service in your  
 11 territory. Is that what I'm hearing you say?  
 12 THE WITNESS: Right. The only way I  
 13 would think that might happen is, again, we end up  
 14 putting so many surcharges and costs on our bill  
 15 that the customer has to choose.  
 16 COMMISSIONER BURG: Well, then if  
 17 you end up -- and this is a follow-up on  
 18 Commissioner Sahr's. If you end up losing a  
 19 customer because a surcharge is too high, that  
 20 would in turn make the charge for the remaining  
 21 ones go even higher.  
 22 THE WITNESS: Exactly.  
 23 COMMISSIONER BURG: It's sort of a  
 24 snowballing effect.  
 25 THE WITNESS: Death spiral.

1 COMMISSIONER BURG: Thanks.  
 2 CHAIRMAN SAHR: I have somewhat of a  
 3 follow-up question to Commissioner Burg's line of  
 4 questioning. And the question of which way people  
 5 will port, wouldn't you anticipate, though, that  
 6 there might be a lot of consumers interested in  
 7 switching between or among wireless companies?  
 8 THE WITNESS: Yeah. That wouldn't  
 9 surprise me.  
 10 CHAIRMAN SAHR: And maybe you're not  
 11 the witness to ask this question of, but right now  
 12 is there that ability to port your number from a  
 13 wireless-to-wireless company?  
 14 THE WITNESS: We've investigated  
 15 ways to accommodate, you know, on a short-term  
 16 basis to keep calls from getting dropped and we  
 17 have not yet found a good solution.  
 18 CHAIRMAN SAHR: Do you know with any  
 19 of these estimates was there any consideration of  
 20 that type of analysis or was it not included?  
 21 THE WITNESS: Say that again.  
 22 CHAIRMAN SAHR: With the cost  
 23 estimates do you know what the -- and I may ask  
 24 this question of Mr. DeWitte and I think actually I  
 25 will save that for him.

1 THE WITNESS: All right.  
 2 CHAIRMAN SAHR: Because it will give  
 3 me a chance to better phrase my question and I  
 4 would imagine you're going to defer to him on it.  
 5 So I'll save that question for Mr. DeWitte's return  
 6 to the stand.  
 7 COMMISSIONER BURG: The suspense is  
 8 killing me.  
 9 MR. SMITH: Commissioner Hanson.  
 10 VICE CHAIR HANSON: Mr. Houdek, on  
 11 your testimony, your rebuttal testimony, and I'm  
 12 not going to ask you to regurgitate it, I'm just  
 13 going to refer to page 1 of your comments from  
 14 lines 12 through 21, and if I could paraphrase and  
 15 perhaps quote a portion of that, you were  
 16 responding to statements that Mr. Williams had made  
 17 in his testimony and you were stating that once the  
 18 FCC made it clear that you were going to be  
 19 required to port numbers, that Venture took  
 20 immediate steps to investigate the cost and the  
 21 processes involved with LNP, and you went on to  
 22 state at the end that the information that you  
 23 wanted to present to the Commission would be  
 24 adopted by cost information as complete as  
 25 possible.



1 What I'm most interested in there is Venture  
2 took immediate steps to investigate the cost and  
3 processes involved with LNP. Are you referring to  
4 your hiring of Mr. DeWitte at that juncture?

5 THE WITNESS: Well, maybe  
6 indirectly. If memory serves, as soon as the Order  
7 came out it turned out that there was an industry  
8 meeting in Sioux Falls on a different topic and we  
9 immediately tried to schedule an industry meeting  
10 to talk about LNP and some of the issues that were  
11 faced there and I think both Mr. DeWitte and  
12 Mr. Thompson were there. So, yeah, it's within a  
13 week of the Order. So pretty immediate.

14 VICE CHAIR HANSON: When you took  
15 those immediate steps to examine as best you could  
16 all the financial information, the costs to  
17 Venture, what sort of instructions did you give to  
18 Mr. DeWitte? Did you say -- and I'll tell you  
19 openly what I'm concerned with here is obviously a  
20 lot of folks went together and hired Mr. DeWitte to  
21 provide information. All of that information is  
22 geared along the same line for providing for LNP.

23 You didn't go off and explore other avenues of  
24 are there less expensive ways to do this, are there  
25 more efficient ways to do this, of all of these

1 options are available.

2 THE WITNESS: Suspension would be a  
3 good option.

4 VICE CHAIR HANSON: All right.  
5 Well, if I was in your chair, if I was in a  
6 manager's chair, again, and someone dictated to me  
7 that I had to -- and certainly I was in that chair  
8 a number of times where other bureaucracies were  
9 telling me you're going to do this and there's a  
10 strong urge to fight it, there's a strong urge to  
11 say what else can we do.

12 However, when you know you've got to  
13 accomplish something, you start looking at all of  
14 those other things.

15 THE WITNESS: That's correct.

16 VICE CHAIR HANSON: Are you  
17 confident that this is your best option?

18 THE WITNESS: If we were forced to  
19 implement -- and again, like I mentioned to  
20 Mr. Sahr, I do think that someone's going to  
21 address the transport and rating and routing issues  
22 and then in my opinion the LNP burden becomes much  
23 less.

24 Right now I don't think that this whole --  
25 this whole process is so much about LNP and porting

1 areas, what is my best option. And certainly that  
2 concerns me.

3 THE WITNESS: I and staff have  
4 talked to managers and staff at other phone  
5 companies that used other consultants and, you  
6 know, tried to best evaluate, you know, how is your  
7 consultant looking at this? Are they considering  
8 this cost or this process. So, you know, maybe in  
9 a less formal way we did evaluate other options. I  
10 don't know if that answers your question.

11 VICE CHAIR HANSON: Well, as a  
12 manager you certainly don't want to place on the  
13 shoulders of your customers the most expensive  
14 option.

15 THE WITNESS: No.

16 VICE CHAIR HANSON: Unless it's the  
17 only option.

18 THE WITNESS: Correct.

19 VICE CHAIR HANSON: And certainly  
20 you want to look for efficiency. You want to look  
21 for quality of service, things of that nature.

22 THE WITNESS: Yes.

23 VICE CHAIR HANSON: And if you only  
24 have one option and it's a very expensive option,  
25 then you're going to be looking at what other

1 of numbers. I think it's a scheme or a game to  
2 get -- get to virtual NXX, have us carry traffic  
3 for free, and I think those are going to be  
4 addressed somehow.

5 So when and if we get to the point where we're  
6 porting numbers I think the burden will be much  
7 less and the cost will be much less.

8 VICE CHAIR HANSON: All right. I  
9 appreciate your honesty in that answer. Thank you  
10 very much.

11 MR. SMITH: Commissioner Burg.

12 COMMISSIONER BURG: I want to pursue  
13 a little bit how we got to this point. What was  
14 the rule -- in other words, I know that certain  
15 companies had to do LNP a year ago or six months  
16 ago or much earlier. What was the rule that came  
17 out?

18 THE WITNESS: I think that's ILECs  
19 that served in the top 100 MSAs, of which we don't.

20 COMMISSIONER BURG: Was there also  
21 you had to be under a certain percent of total  
22 lines in the United States to be eligible for  
23 suspension?

24 THE WITNESS: It seems like some of  
25 the smaller companies in the top 100 received a

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1 suspension or temporary suspension.  
 2 COMMISSIONER BURG: And this is part  
 3 of the 1996 Act, or is this FCC ruling?  
 4 THE WITNESS: Kind of a combination.  
 5 I think Congress ordered or put in the '96 Act LNP  
 6 provisions, but I think Mr. Wieczorek said that  
 7 Congress ordered the surcharge. I don't think  
 8 that's correct. I think the FCC talked about a  
 9 surcharge.  
 10 COMMISSIONER BURG: What I'm getting  
 11 at is where did the suspension opportunity come  
 12 from, the authority to request suspension come  
 13 from?  
 14 THE WITNESS: I think the FCC has  
 15 given the State Commissions the authority to  
 16 suspend or modify.  
 17 MR. SMITH: It's in the Act.  
 18 COMMISSIONER BURG: It's in the Act.  
 19 That's what I was going to say.  
 20 MR. SMITH: And the state statute,  
 21 Section 80 of our statute.  
 22 COMMISSIONER BURG: Okay. So what  
 23 I'm getting at is somebody recognized that there  
 24 might be an undue burden for that portion of it and  
 25 allowed a suspension opportunity.

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1 THE WITNESS: Exactly.  
 2 COMMISSIONER BURG: And what we're  
 3 here for today is determining whether you should be  
 4 eligible for that suspension opportunity; is that  
 5 correct?  
 6 THE WITNESS: Right.  
 7 COMMISSIONER BURG: And that's why  
 8 you submitted it, and is that why -- I mean, you  
 9 know, one of the problems I have with other options  
 10 is there are probably ultimate options of ways that  
 11 this could be done. To what extent and to what  
 12 cost should we be going to find those options,  
 13 especially when so much of it is still, like you  
 14 said, undetermined. I think you made a pretty good  
 15 statement on that.  
 16 THE WITNESS: And again, this is my  
 17 opinion, but I think to order the rural ILECs to  
 18 provision for LNP until all of these issues are  
 19 addressed and place this burden on the customers is  
 20 rash because I do think at some point these issues  
 21 are going to be addressed.  
 22 COMMISSIONER BURG: Do you have any  
 23 kind of wild estimate of how long you think that  
 24 process would take?  
 25 THE WITNESS: I would hope to have

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1 seen something by now. I've had visits with the  
 2 FCC Commissioners and staff and they recognize that  
 3 they dropped the ball and none of them are willing  
 4 to commit to a timeline but I'd hope before the end  
 5 of the year.  
 6 COMMISSIONER BURG: Did they  
 7 indicate to you the wisdom of pushing LNP forward  
 8 before they've made those adjustments?  
 9 THE WITNESS: Again, my  
 10 characterization of their opinion is that they  
 11 failed to recognize the rural and high-cost areas  
 12 and how LNP might impact them.  
 13 COMMISSIONER BURG: But did they  
 14 give you any indication of their feeling about the  
 15 suspension until that occurred then, even though  
 16 they made the Order?  
 17 THE WITNESS: One of them said the  
 18 response to LNP was underwhelming.  
 19 COMMISSIONER BURG: That's all I  
 20 have.  
 21 CHAIRMAN SAHR: I have a couple more  
 22 questions.  
 23 MR. SMITH: Please.  
 24 CHAIRMAN SAHR: The issues of the  
 25 uncertainty in the rules, and we've heard that

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1 phrase be used a lot, do you know -- it's a legal  
 2 question. Do you know, is that grounds for a State  
 3 Commission to grant suspension based on uncertainty  
 4 of the rules going forward?  
 5 THE WITNESS: In my legal opinion,  
 6 yes.  
 7 CHAIRMAN SAHR: Fair enough. And  
 8 then a question that I think has been asked time  
 9 and time again has been are there lower cost  
 10 alternatives available? I'm going to ask the other  
 11 side of that question. Did you identify any other  
 12 alternatives that were higher cost or is the one  
 13 that's being proposed the highest cost one that you  
 14 know of?  
 15 THE WITNESS: No. I wouldn't say  
 16 this is the highest cost one. This was meant to  
 17 portray -- someone indicated worst case. I don't  
 18 think that's quite fair. If we had to provision  
 19 today under the way that we interpret the rules,  
 20 this could be the impact. And we wanted to try to  
 21 demonstrate just how big of an impact that could  
 22 be. So, no, I don't think it's the highest cost  
 23 certainly. Are there lower ways? You know,  
 24 perhaps.  
 25 CHAIRMAN SAHR: Thank you.

1 MR. SMITH: Randy, you've been up  
2 there a long time. Do you need a break before we  
3 go to the next round?

4 THE WITNESS: No. Once I get down I  
5 don't want to get back up.

6 MR. SMITH: All right. Ms. Rogers.

7 MS. POLLMAN ROGERS: Thank you.

8 REDIRECT EXAMINATION

9 BY MS. POLLMAN ROGERS:

10 Q Randy, I have just a few questions on redirect. You  
11 were asked by Mr. Wiczorek whether you contacted  
12 Western Wireless to discuss options or other options  
13 for provisioning LNP.

14 And I would ask you other than that form  
15 letter that accompanied the BFR, did they contact you?

16 A No.

17 Q Now with regard to the questions concerning the  
18 other -- you had some questions about five wireless  
19 carriers and you've listed them in your testimony.  
20 Once you implement LNP if you are required to do so,  
21 would you anticipate that there are other wireless  
22 carriers that would come in and request LNP?

23 A I'd have to assume so. There are at least five  
24 wireless licenses that cover our area and I have to  
25 assume that the providers or the owners of those

1 LNP?

2 A Certainly.

3 Q And so under the existing network and the way your  
4 contractual arrangements are set up now, are you  
5 confident that the system that Mr. DeWitte looked at  
6 and studied and provided us costs for today, that this  
7 is a system that would work if you have to implement  
8 LNP?

9 A That's correct.

10 Q Under today's system do you, other than any specific  
11 arrangements for EAS, which you have outlined, do you  
12 route traffic outside of your exchange area as toll  
13 traffic?

14 A Yes.

15 Q Do you get access charges for that?

16 A Yes.

17 Q Are the access charges important as part of your  
18 revenue stream?

19 A It's a huge part of our revenue stream.

20 Q And if asked by this Commission or through this process  
21 to change the whole underlying system of your network  
22 now, do you believe that that could be detrimental to  
23 your company in other ways?

24 MR. WIECZOREK: I'm going to  
25 interpose an objection. The last several questions

1 licenses are going to provide service.

2 Q Okay. And, in fact, in Mr. Williams' testimony in his  
3 exhibits he also used five wireless carriers in his  
4 analysis, didn't he?

5 A That's correct.

6 Q There was some talk about -- or some questions  
7 concerning whether or not it would be better for your  
8 subscribers to pay one level of transport versus  
9 another. Wouldn't it be better for your subscribers to  
10 pay zero in transport?

11 A Yeah. In my opinion, I think the transport obligation  
12 should go back to the wireless carrier.

13 Q Okay. And when you were -- let's take your -- let me  
14 approach it this way: Take yourself back to the point  
15 in time when the LNP Order from the FCC came out, okay,  
16 and what you had at that time was basically a deadline  
17 breathing down your neck; is that correct?

18 A Yes.

19 Q And so then you did start to look at what are we going  
20 to do as a company?

21 A That's correct.

22 Q And when you started talking to consultants or finding  
23 a consultant and that type of thing, wasn't one of your  
24 other considerations to come up with an option or a  
25 plan that would work if you were required to implement

1 have all been straight leading questions. It's her  
2 witness, she's not allowed to just lead him down  
3 the road.

4 MR. SMITH: Can you rephrase the  
5 question.

6 Q What effect, if any, do you think that that could have  
7 on your company?

8 A It would be very detrimental. We have a large amount  
9 of debt, and these loans were loaned to us based on  
10 assumption of some recurring revenue streams. If  
11 that's disrupted, it's going to affect my ability to  
12 pay those loans or certainly to get new loans.

13 Q And this would be to implement a service for which you  
14 have had -- have you had very much demand for LNP?

15 A To my knowledge, no customers have asked for  
16 wireline-to-wireless LNP. We have talked about a  
17 couple of wireless-to-wireless issues.

18 Q Okay. You were asked, I believe, by Commissioner Burg  
19 about some of your communications with the FCC, and I'm  
20 going to ask you to look at this document that I will  
21 have marked as Exhibit 4.

22 (Exhibit Venture 4 is marked for identification)

23 Q I assume you have what has been marked as Venture  
24 Exhibit 4. Can you please identify this?

25 A It appears to be a letter from FCC Chairman Mike Powell

1 to Stan Wise, President of NARUC.  
 2 **Q** And what's the date of the letter?  
 3 **A** June 18, 2004.  
 4 **Q** How did you receive a copy of it? Or did you receive a  
 5 copy of it?  
 6 **A** Yes, I did.  
 7 **Q** How did you receive a copy of it?  
 8 **A** This particular copy came as an e-mail from someone at  
 9 NTCA.  
 10 **Q** In response to Commissioner Burg's questions concerning  
 11 the attitude of the FCC with regard to smaller  
 12 carriers, do you believe this letter would address some  
 13 of those questions?  
 14 **A** Yes, I do.  
 15 **Q** And can you just briefly describe them? Although  
 16 obviously the exhibit speaks for itself, what are some  
 17 of the sentiments expressed in the letter?  
 18 **A** I think the reason that this letter came about was due  
 19 to the lawsuit that NTCA filed in opposition to the  
 20 FCC's LNP Order that was adjoined by the Small Business  
 21 Administration. The Small Business Administration  
 22 wanted to demonstrate that the FCC's Order placed some  
 23 huge burdens on small businesses and didn't consider  
 24 the impacts that the LNP Order might have on these  
 25 small businesses. And it goes on to instruct NARUC to

1 instruct the State Commissions to recognize the burdens  
 2 that LNP has on small rural phone companies.  
 3 **Q** Okay.  
 4 MS. POLLMAN ROGERS: I would offer  
 5 this exhibit into evidence.  
 6 MR. WIECZOREK: May I ask a couple  
 7 of questions of the witness to clarify some issues  
 8 on the document?  
 9 MR. SMITH: Yes.  
 10 MR. WIECZOREK: When did you receive  
 11 this e-mail that contained this document?  
 12 THE WITNESS: The day before  
 13 yesterday, I believe.  
 14 MR. WIECZOREK: Day before  
 15 yesterday. This is the first time I've seen it.  
 16 Did you -- you didn't feel like you had an  
 17 obligation to supply it through continuing  
 18 discovery after you received it based on our  
 19 discovery request?  
 20 THE WITNESS: Frankly, I didn't  
 21 think that it would be issued this soon. I knew  
 22 that they had talked -- the person I talked to at  
 23 the Small Business Administration indicated there  
 24 might be a letter but I didn't think it would be  
 25 out this soon.

1 MS. POLLMAN ROGERS: Could you tell  
 2 us which discovery request you're referring to?  
 3 MR. WIECZOREK: Well, rather than  
 4 spend the next 20 minutes to go through and pick  
 5 out the number of discovery requests where we asked  
 6 for information based on public information or  
 7 LNP --  
 8 MS. POLLMAN ROGERS: Well, my  
 9 question is, did you ask any discovery requests for  
 10 these types of documents?  
 11 MR. WIECZOREK: Yes. Commission, I  
 12 apologize. When I get something out of the blue  
 13 sometimes I just have questions where it came from,  
 14 but I tell you what, I don't have any objections to  
 15 the document based on that.  
 16 MR. SMITH: We all got the same  
 17 letter yesterday.  
 18 MS. POLLMAN ROGERS: I want the  
 19 question stricken, however. That is a misstatement  
 20 of what's happened. There were no discovery  
 21 requests like that. That was incorrect.  
 22 CHAIRMAN SAHR: Why don't we just  
 23 take -- can't we take judicial notice of this?  
 24 MS. POLLMAN ROGERS: I believe that  
 25 would be another option.

1 MR. SMITH: We received the letter  
 2 so I guess we know it exists and it's -- I'm going  
 3 to admit the letter.  
 4 MR. WIECZOREK: And I'll withdraw my  
 5 objections.  
 6 MS. POLLMAN ROGERS: Thank you.  
 7 That's all.  
 8 MR. COIT: No questions.  
 9 MR. SMITH: Mr. Wieczorek.  
 10 MR. WIECZOREK: A couple.  
 11 RE-CROSS-EXAMINATION  
 12 BY MR. WIECZOREK:  
 13 **Q** If you'll give me a moment, I'm reading this letter for  
 14 the first time, Venture No. 4. You still have that in  
 15 front of you?  
 16 **A** Yes.  
 17 **Q** The bottom of that first page it talks about urging the  
 18 State Commissions in the course of deliberations on  
 19 waiver requests such as the one you have here, you've  
 20 made here; correct?  
 21 **A** Uh-huh.  
 22 **Q** To encourage the parties to develop and submit data  
 23 relating to the benefits of wireline-to-wireless number  
 24 portability, and this is the part, and the costs of  
 25 complying with those obligations, including upgrade

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1 costs to the network and routing costs for calls  
 2 forwarded to carriers.  
 3 Do you see that?  
 4 A Yes.  
 5 Q Well, the only costs you're submitting to this  
 6 Commission are the costs that Mr. DeWitte is  
 7 submitting; correct?  
 8 A Yes.  
 9 Q And on my earlier cross you've already admitted that  
 10 those costs submitted by Mr. DeWitte actually overstate  
 11 the current situation that you have in your system?  
 12 MS. POLLMAN ROGERS: I object to  
 13 that. That's a misstatement of his testimony.  
 14 MR. WIECZOREK: I don't believe it  
 15 is.  
 16 MR. SMITH: I'm sorry.  
 17 MR. WIECZOREK: He testified in my  
 18 original cross that Mr. DeWitte's cost analysis  
 19 does not reflect the current situation in his  
 20 service area.  
 21 MS. POLLMAN ROGERS: No. That's a  
 22 different question than what you just asked.  
 23 MR. WIECZOREK: Well, then I'll ask  
 24 that question.  
 25 MS. POLLMAN ROGERS: I have the same

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1 objection to that question. That's a  
 2 mischaracterization of what he testified to.  
 3 MR. SMITH: I'm going to let him  
 4 answer it.  
 5 A I was afraid of that. Can you ask it again.  
 6 MR. WIECZOREK: Rather than get  
 7 another objection, I'll just ask the court reporter  
 8 to read it back.  
 9 (Reporter reads back last question)  
 10 MS. POLLMAN ROGERS: I'm sorry.  
 11 That's not the second question you asked.  
 12 (Reporter reads back requested portion)  
 13 A I'll try. The costs that Mr. DeWitte supplied supposed  
 14 there would be five carriers requesting LNP. To date I  
 15 have not yet received five requests for LNP.  
 16 Q Right. And you agree that you don't even -- Nextel,  
 17 Sprint PCS, do not even provide -- are not currently  
 18 even providing service in at least 19 of your  
 19 exchanges; correct?  
 20 A I think that's correct.  
 21 Q Now in reading this letter, again, very quickly here,  
 22 but it seems to be the general gist of this letter is  
 23 Commissioner Powell would like people to try to  
 24 cooperate and get the true facts on the table and the  
 25 best cost estimates of LNP. Wouldn't you agree?

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1 A I would agree.  
 2 Q You said something on another questioning that -- I  
 3 wrote it down and hopefully I had it perfect. Let me  
 4 know if I didn't. But you said, If we were forced to  
 5 implement LNP, this transport and routing will be  
 6 answered. Do you remember saying that?  
 7 A I remember saying something to the effect I hope the  
 8 transporting and routing will be addressed in the  
 9 order.  
 10 Q So if this Commission would order implementation of LNP  
 11 and address transport and routing, that would satisfy  
 12 you?  
 13 A We still have obviously some costs not associated with  
 14 transport and routing. You know, as long as they are  
 15 addressed and the transport and routing issues are  
 16 addressed properly, yeah.  
 17 Q Now you understand that it's your burden to show undue  
 18 economic -- undue economic burden in this case; right?  
 19 A I guess so.  
 20 Q Okay. And maybe burden's not a -- that's kind of a  
 21 legal term. It's your obligation to show this is going  
 22 to cause you an undue economic burden.  
 23 A Okay.  
 24 Q And you testified that if you had to provide LNP  
 25 pursuant to the way that Western Wireless has

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1 suggested, it could impact different loans and  
 2 different things you have because you rely on transport  
 3 revenue and you lose some of that transport revenue;  
 4 correct?  
 5 A That's not exactly what I said.  
 6 Q Go ahead.  
 7 A If we had to provision LNP the way that you've  
 8 diagrammed there, I suspect that there would be a huge  
 9 reduction in access minutes and toll minutes, and that  
 10 would impact our whole business, not just our ability  
 11 to pay our loans.  
 12 Q Okay. Your transport cost as projected by Mr. DeWitte  
 13 in his plan, which we agree -- I believe and you agree  
 14 overstates your actual current situation?  
 15 MS. POLLMAN ROGERS: No. I'm going  
 16 to object to that. I don't believe that he did  
 17 agree to that.  
 18 MR. WIECZOREK: Well, the record  
 19 will stand for what you've said.  
 20 A Okay.  
 21 Q I'll just say this: The current projections submitted  
 22 by Mr. DeWitte for transport installation, and monthly  
 23 recurring -- well, transport installation is 625,000  
 24 and -- here's a copy of his Exhibit 3A so you can  
 25 confirm that I'm representing the numbers correctly.

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1 Do you see that?

2 A Yes.

3 Q And a monthly recurring of 220,000 and change; correct?

4 A Correct.

5 Q And my math, at 220,000 a month gets me to over -- I'm

6 just going to round off, over 2.6 million. Do you

7 agree with that?

8 A Subject to your math.

9 Q Okay. Which is always iffy. But add 600,000 to 2.6

10 million you get 3.2 million; correct?

11 A Again, subject to your math.

12 Q Wouldn't a \$3.2 million hit to install LNP the way

13 you've proposed impact these loans that you're so

14 concerned about?

15 A I don't know if this is an answer to your question but

16 a \$3 million capital outlay for anything impacts our

17 company.

18 Q Okay. Wouldn't you agree that would be a greater

19 impact than the lost transport costs that you would

20 project under the Western Wireless plan?

21 A I don't think I would agree with that.

22 Q You think you're going to lose transport costs in

23 excess of \$3.2 million under the Western Wireless plan?

24 A Just the Western Wireless plan and just dealing with

25 Western Wireless probably wouldn't be \$3.2 million.

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1 But that begins a process where, you know, if five

2 carriers -- if I'm forced to provide LNP like this for

3 five carriers, the downstream effects of what it will

4 do to access, what it will do to my toll revenues, the

5 impact it will have on my local service it will be in

6 excess of \$3 million.

7 Q You haven't done any research to present any numbers to

8 support that conclusion, have you?

9 A I don't believe so.

10 Q And Mr. DeWitte hasn't provided any numbers to support

11 that conclusion, has he?

12 A Again, I don't believe so.

13 MR. WIECZOREK: Okay. That's all I

14 have.

15 MR. SMITH: Mr. Gerdes?

16 MR. GERDES: No questions.

17 MS. WIEST: No questions.

18 MR. SMITH: Commissioners?

19 COMMISSIONER BURG: I have one

20 follow-up. I think Mr. Wiecezorek asked you, and if

21 I state this question wrongly, correct me, that if

22 the Commission found a way to satisfy your

23 transport issues that could we go forward. Do you

24 remember that question?

25 THE WITNESS: Again, in my opinion.

425

1 I can't testify for the other companies, but

2 transport is a huge issue in our company. The

3 software costs, implementation, the proposed time

4 to actually port the numbers. There's a lot of big

5 issues, but transport is a major issue for our

6 company.

7 COMMISSIONER BURG: But my question

8 is, do you see any way this Commission could

9 mitigate the transport costs to satisfy your

10 problem?

11 THE WITNESS: Yeah. You make it the

12 obligation of the wireless carrier requesting LNP.

13 COMMISSIONER BURG: Do you think we

14 have that authority?

15 THE WITNESS: Yes.

16 COMMISSIONER BURG: I don't know if

17 we do. We don't regulate the wireless. That would

18 be the question I had.

19 MR. SMITH: We'll talk about that

20 with somebody that's not Randy.

21 THE WITNESS: If you want my legal

22 opinion.

23 MR. SMITH: I think that's a legal

24 issue.

25 COMMISSIONER BURG: That's a very

426

1 huge issue to me because if there's a way, that

2 opens a whole new avenue whether we can implement

3 LNP and pass those transport costs on. Otherwise,

4 I would be under the impression since we don't

5 regulate wireless and I don't know if we do but you

6 said it's a legal question and I'll leave it to the

7 legal people to decide but it did make my attention

8 span go up in a hurry. Thank you.

9 MS. POLLMAN ROGERS: I have nothing

10 further.

11 MR. SMITH: You may step down.

12 THE WITNESS: Thank you.

13 MR. SMITH: Not a minute too soon.

14 THE WITNESS: Yes.

15 (Exhibits West River 1 through 3 are marked for

16 identification)

17 (A short recess is taken)

18 MR. SMITH: We're back on the

19 record. And it's now time for Docket No. TC04-061

20 that's in the matter of the petition of West River

21 Cooperative Telephone Company for suspension of LNP

22 obligations.

23 I'm going to note something before we head

24 into this, and that is the exhibit that we

25 received, the FCC letter, I'm going to make the

1 assumption that that letter was offered with  
 2 respect to all of the LNP Dockets.  
 3 MR. WIECZOREK: I have no objection.  
 4 MR. SMITH: Okay. Thank you. With  
 5 that, Petitioners, please call your next witness.  
 6 MS. POLLMAN ROGERS: We would call  
 7 Jerry Reisenauer.  
 8 JERRY REISENAUER,  
 9 called as a witness, being first duly sworn in the  
 10 above cause, testified under oath as follows:  
 11 DIRECT EXAMINATION  
 12 BY MS. POLLMAN ROGERS:  
 13 Q Good morning.  
 14 A Good morning.  
 15 Q Would you please state your name and business address  
 16 for the record.  
 17 A Yes. My name is Jerry Reisenauer and my business  
 18 address is 801 Coleman Avenue, Bison, South Dakota.  
 19 Q What is your occupation?  
 20 A I'm the general manager of the West River Cooperative  
 21 Telephone Company.  
 22 Q That's the Petitioner in this Docket; correct?  
 23 A That's correct.  
 24 Q Mr. Reisenauer, have you prefiled testimony in this  
 25 case?

1 A Yes, I have.  
 2 Q And would you please take a look at West River's  
 3 Exhibits 1 and 2?  
 4 A Yes.  
 5 Q And would those documents be the prefiled testimony,  
 6 both your direct and rebuttal that you filed in this  
 7 Docket?  
 8 A That is correct.  
 9 Q Do you have any additions or corrections to the  
 10 documents?  
 11 A I do have a clarification to my prefiled, direct  
 12 prefiled testimony, and that would be on page 4, line  
 13 13 where I reference Exhibit 1. The Exhibit 1 should  
 14 be to John DeWitte's prefiled testimony. It was not  
 15 attached to my testimony.  
 16 Q Would that be on line 9?  
 17 A It's on line 13 on mine.  
 18 Q Okay. Do you have any other additions or corrections  
 19 or clarifications?  
 20 A I do not.  
 21 Q If I asked you -- and this testimony was prepared by  
 22 you or at your direction; is that correct?  
 23 A That is correct.  
 24 Q If I were to ask you the questions contained in these  
 25 exhibits today, would your answers be the same?

1 A Yes, they would.  
 2 Q Could you please briefly summarize your prefiled  
 3 testimony.  
 4 A Certainly. Being a cooperative or a member-owned  
 5 organization, our goal is to provide those services  
 6 that benefit our members. And after reviewing the LNP  
 7 issues with our board of directors, we determined that  
 8 the lack of request for porting of wireline number to a  
 9 wireless -- excuse me, wireless number to -- wireline  
 10 number to wireless carrier, the excessive costs  
 11 associated with implementing local number portability  
 12 and the obvious lack of benefit to our members, it was  
 13 in our best interest to request a waiver to complying  
 14 with the portability requirements until the FCC has  
 15 addressed the transport and cost issues that will be  
 16 borne by our members under the existing environment.  
 17 MS. POLLMAN ROGERS: Thank you. At  
 18 this time I would offer West River's Exhibits 1 and  
 19 2.  
 20 MR. WIECZOREK: I have no objection.  
 21 MS. WIEST: No objection.  
 22 MR. COIT: No objection.  
 23 MR. SMITH: West River's Exhibits 1  
 24 and 2 are admitted.  
 25 MS. POLLMAN ROGERS: I would tender

1 the witness for cross-examination.  
 2 MR. SMITH: Mr. Coit?  
 3 MR. COIT: No questions.  
 4 MR. SMITH: Mr. Wieczorek.  
 5 MR. WIECZOREK: Thank you,  
 6 Mr. Smith, Commission.  
 7 CROSS-EXAMINATION  
 8 BY MR. WIECZOREK:  
 9 Q Do you have an affiliate in North Dakota?  
 10 A No, we do not.  
 11 Q You reference and had actually modified your testimony  
 12 regarding the costs that have been prepared by  
 13 Mr. DeWitte. Do you recall doing that just a moment  
 14 ago?  
 15 A Yes, I do.  
 16 Q And you also then in your summary talked about the  
 17 excessive costs of LNP. Do you remember that?  
 18 A Yes, I do.  
 19 Q Now when you talked -- the excessive costs you're  
 20 talking about -- well, the only cost analysis that you  
 21 have done is what you have had Mr. DeWitte perform;  
 22 correct?  
 23 A Cost analysis, that is correct.  
 24 Q So when you talk about the excessive costs you're using  
 25 Mr. DeWitte's numbers; correct?

431

1 A Yes, I am.

2 Q Now are you familiar with the fact that when

3 Mr. DeWitte calculated your costs he assumed four cell

4 phone providers in your area?

5 A I am not familiar with that fact to that extent, no.

6 Q Okay. Well, the four cell phone carriers in your

7 direct testimony, it might be easier to use the marked

8 testimony because that line number and page number

9 should coordinate with what's been provided to

10 everybody else.

11 A All right.

12 Q Did you find it?

13 A Yes.

14 Q Go ahead. I might have to borrow from you to read some

15 of these numbers myself. If you go to page 2 of your

16 direct testimony.

17 A Yes.

18 Q Line 21.

19 A Yes.

20 Q The four cell companies, and I'll just represent to you

21 these are the four cell companies Mr. DeWitte used and

22 I'll clarify that with him later, of course, Verizon

23 Wireless, Western Wireless, Sprint PCS, and Nextel. Do

24 you see that?

25 A Yes, I do.

432

1 Q Do you know whether Nextel even currently operates in

2 the state of South Dakota?

3 A I am not aware as to the extent of Nextel's

4 South Dakota operations. I am aware that they do have

5 service in some parts of South Dakota.

6 Q And that's in the eastern part of the state, you'd

7 agree?

8 A I believe it is.

9 Q In fact, Nextel doesn't operate anywhere West River, do

10 they?

11 A I'm not aware of anywhere they operate West River.

12 Q Okay. And Sprint PCS doesn't operate anywhere West

13 River, does it?

14 A Not that I'm aware.

15 Q Do you know the extent of the Sprint PCS operating

16 range in South Dakota?

17 A I do not.

18 Q You understand that those excessive costs of

19 Mr. DeWitte includes point of interconnects to each one

20 of your exchanges for both Sprint PCS and Nextel?

21 MS. POLLMAN ROGERS: I'm going to

22 object to that question. He did not testify it was

23 excessive costs of Mr. DeWitte. He testified it

24 would be excessive cost to his company and

25 cooperative members.

433

1 Q With that modification, can you answer the question?

2 MR. WIECZOREK: I agree he says it's

3 excessive costs.

4 Q It's based on Mr. DeWitte's costs when you come up with

5 excessive; right? Let's back up. The excessive costs

6 you talked about, the only cost analysis you've done is

7 Mr. DeWitte's cost analysis; correct?

8 A That is correct.

9 Q The excessive costs you refer to in your opening

10 statement were the cost analysis performed by

11 Mr. DeWitte; correct?

12 A That is correct.

13 Q With that premise then, do you understand that the cost

14 analysis performed by Mr. DeWitte includes a point of

15 interconnection to every one of your exchanges by

16 Sprint PCS and Nextel?

17 A I believe it does.

18 Q Okay. And you have eight exchanges?

19 A That is correct.

20 Q So that would be 16 points of interconnection, 2 times

21 8?

22 A Yes.

23 Q And Mr. DeWitte has priced those points of

24 interconnection at \$5,000 a piece. Are you aware of

25 that?

434

1 A Yes.

2 Q Okay. So at \$5,000, 16 interconnections, that's

3 \$80,000 of your install costs; correct?

4 A I don't believe I agree with your math but --

5 Q Well, let's do it the easy way. You've got eight

6 exchanges.

7 A I will agree with that's --

8 Q Well, I don't want you to think that I miscalculated.

9 So let me run through it and tell me if you agree. You

10 have eight exchanges; correct?

11 A Yes.

12 Q For one cell company it costs \$5,000 to put a point of

13 interconnection in?

14 A Yes.

15 Q Okay. So you take 8 times 5 equals 40 and you have two

16 cell companies that -- or two of the companies you've

17 listed that are nowhere near your territory. You take

18 40 times 2, that's \$80,000; correct?

19 A That's correct.

20 Q Okay. And Mr. DeWitte's costs for your install are

21 \$160,000; correct?

22 A That is correct.

23 Q So that's half of that install cost; correct?

24 A Yes. It would be.

25 Q Okay. Now you're not representing to this Commission



435

1 that you have information that Nextel and Sprint are  
 2 going to be coming into your service area within the  
 3 next couple of years, are you?  
 4 A I don't have that knowledge. I can't determine what  
 5 Sprint or Nextel may do.  
 6 Q Now you would also agree that costs, the monthly  
 7 recurring costs, includes a monthly recurring cost for  
 8 each one of those points of interconnects for both  
 9 Sprint and Nextel; correct?  
 10 A I would defer that question to Mr. DeWitte. I'm not  
 11 aware of that.  
 12 Q Do you know of any more expensive way to provide LNP on  
 13 your system than the one that's been proposed by  
 14 Mr. DeWitte?  
 15 A Do I have knowledge of any more expensive?  
 16 Q Yes.  
 17 A No. I do not have knowledge if there are more  
 18 expensive options. I have no knowledge if there are  
 19 more dependable or less dependable options.  
 20 Q Okay. You've testified about -- you guys have rolled  
 21 out broadband in your area?  
 22 A Yes, we have.  
 23 Q You've actually rolled out and have broadband in your  
 24 area?  
 25 A In some parts of our service territory we have.

436

1 Q Have you charged for that broadband that you've rolled  
 2 out?  
 3 A We do charge for it, yes.  
 4 Q You have some extended area of service for your  
 5 subscribers; correct?  
 6 A That is correct.  
 7 Q And you provide that because that's a benefit to your  
 8 consumers?  
 9 A Yes.  
 10 Q Your consumers like having that extended area of  
 11 service?  
 12 A Our consumers I assume like having extended area  
 13 service. We do not get complaints about it.  
 14 Q Well, you agree that the more calls you can make as  
 15 local, that usually benefits the consumer?  
 16 A No. I don't agree to that.  
 17 Q So toll calls actually are more of a benefit to the  
 18 consumer?  
 19 A I agree that I would state that there are several other  
 20 criteria as to what is beneficial to our consumers  
 21 other than the size of the calling scope.  
 22 Q Well, calling scope can be a benefit. You'd agree with  
 23 that?  
 24 A Hypothetically bigger is better? Is that what you're  
 25 asking?

437

1 Q Well, I'm asking you that general -- let's ask  
 2 generally. Maybe it isn't for every consumer, though I  
 3 can't imagine it isn't. But generally the ability to  
 4 place local calls within a larger area is a benefit to  
 5 those consumers paying for the service?  
 6 A It is one of the criteria and would be beneficial based  
 7 on that, yes.  
 8 Q Prior to the November 10, 2003 decision by the FCC on  
 9 number portability had you done any investigation or  
 10 any work regarding the cost or supplying of LNP?  
 11 A Prior to November 10?  
 12 Q Right.  
 13 A No, we have not.  
 14 Q The sole scope of your investigation and cost into the  
 15 provisioning of LNP since then has been working with  
 16 Mr. DeWitte and preparing your costs; is that true?  
 17 A No, that's not.  
 18 Q What else have you done?  
 19 A We have reviewed our infrastructure as to the updates  
 20 that are necessary. We have talked to other companies  
 21 as to -- and other companies as to what they felt  
 22 companies with the same type of switch that we have as  
 23 to what they felt were issues.  
 24 We've discussed issues with legal, and we  
 25 have reviewed things with our consultants.

438

1 Q Have you talked to any Minnesota companies, LECs, how  
 2 they're handling LNP?  
 3 A No, I have not.  
 4 Q You understand that there's a -- that the federal law  
 5 allows an end-user surcharge to recover your costs for  
 6 deployment of LNP?  
 7 A I understand that an end-user surcharge may be  
 8 available to cover some of the costs of LNP. I have no  
 9 knowledge whether that is all the costs associated with  
 10 LNP or not.  
 11 Q So in your investigation you didn't make that  
 12 determination?  
 13 A We did not make that determination.  
 14 Q You receive USAC funds; correct?  
 15 A Yes, we do.  
 16 Q Do you know how much you receive in local switching  
 17 support through USAC on an annual basis?  
 18 A I do not.  
 19 Q How much do you just receive in USAC funds on an annual  
 20 basis?  
 21 A I don't have that number. I can't tell you exactly.  
 22 Q You can't even approximate?  
 23 A Approximately in excess of 1 million.  
 24 Q You understand that your switch-related costs -- well,  
 25 let's back up. You submit your costs for the service

439

1 to your system and your switch upgrades to USAC to use  
 2 in basing support costs, don't you?  
 3 A I believe we do.  
 4 Q And it would be your plan to submit these costs for LNP  
 5 upgrade to USAC for support?  
 6 A Those costs that are eligible for reimbursement, I'm  
 7 sure we would.  
 8 Q Now you've not done any kind of independent or internal  
 9 survey of your customers on what they would pay to have  
 10 the option of LNP, have you?  
 11 A Formal survey, we have not.  
 12 Q And you're not presenting any demographic information  
 13 to this Commission as to the income, average income or  
 14 any income information on your customers, are you?  
 15 A I have not provided any demographic information.  
 16 However, I would state that we serve parts of two  
 17 counties that are consistently amongst the 10 lowest  
 18 income counties in the nation annually.  
 19 Q You serve parts of those counties?  
 20 A Yes, we do.  
 21 MR. WIECZOREK: That's all I have.  
 22 MR. SMITH: Ms. Wiest.  
 23 CROSS-EXAMINATION  
 24 BY MS. WIEST:  
 25 Q What is your current local rate?

440

1 A Current local rates for residential range between 7 and  
 2 12.50 and for business between 10.50 and \$23.  
 3 Q Thank you. You have received some BFRs; is that  
 4 correct?  
 5 A We have received two BFRs.  
 6 Q How did you respond to those?  
 7 A We acknowledged the receipt of the BFRs.  
 8 Q Could you go to your rebuttal testimony?  
 9 A Yes.  
 10 Q On page 2 beginning at the end of line 5 but mainly on  
 11 line 6 you state, "Pursuant to the Interconnection  
 12 Agreement West River did not agree to route traffic  
 13 destined for Western Wireless to the serving tandem."  
 14 Is there any reason why West River did not agree to do  
 15 that?  
 16 A Would you define the serving tandem?  
 17 Q Qwest.  
 18 A Qwest?  
 19 Q Yes.  
 20 A I would have to review all of our contractual  
 21 arrangements to see if that is possible. I would have  
 22 to contact Qwest to see if they were interested in  
 23 having that traffic routed through that tandem.  
 24 Q Do you have any reason to believe that Qwest would not  
 25 be interested in routing that traffic for you?

441

1 A I don't know.  
 2 Q If the Commission were to order your company to  
 3 implement LNP and transport was your responsibility, do  
 4 you believe at that point you would explore other more  
 5 efficient, less costly options?  
 6 A I believe we would, given the proper time frame we  
 7 would --  
 8 MS. POLLMAN ROGERS: Just a minute.  
 9 I am going to object to that question. It has not  
 10 been established that there are more efficient  
 11 cost-effective methods.  
 12 Q Are you aware --  
 13 MR. SMITH: I'm going to overrule it  
 14 because all she asked is whether would he explore  
 15 more efficient cost-effective methods.  
 16 MS. POLLMAN ROGERS: But again, it  
 17 hasn't been established if there are any --  
 18 MR. SMITH: I don't think the  
 19 question assumes that.  
 20 Q Go ahead.  
 21 A Could you restate your question.  
 22 Q Right. If the Commission were to order you to  
 23 implement LNP and you were responsible for the  
 24 transport, at that point do you believe that you would  
 25 explore other more efficient less costly options?

442

1 A Again, given sufficient time frame, I think we would  
 2 explore all available options for not only cost but  
 3 reliability, availability. A number of things would  
 4 come into that equation.  
 5 Q And do you believe that Western Wireless's proposal,  
 6 routing proposal, would bring up reliability concerns?  
 7 A Routing to a Qwest tandem?  
 8 Q Yes.  
 9 A I don't know.  
 10 MS. WIEST: That's all I have.  
 11 Thank you.  
 12 MR. SMITH: Commissioner questions?  
 13 CHAIRMAN SAHR: Good morning.  
 14 THE WITNESS: Good morning, Bob.  
 15 CHAIRMAN SAHR: Or good afternoon.  
 16 I think we just ticked past morning.  
 17 THE WITNESS: It's still morning in  
 18 West River.  
 19 CHAIRMAN SAHR: Very good point.  
 20 THE WITNESS: Thank you.  
 21 CHAIRMAN SAHR: Would you be willing  
 22 to participate in a working group to continue to  
 23 look at options to implement LNP that might be more  
 24 cost-effective while at the same time addressing  
 25 what you feel are some very important concerns that

1 you've outlined in your testimony?  
 2 THE WITNESS: Absolutely.  
 3 CHAIRMAN SAHR: And if you were to  
 4 have input on what type of people might serve on  
 5 that group, who would you suggest be part of that  
 6 process?  
 7 THE WITNESS: I would assume all the  
 8 associated parties, some consultants, some legal  
 9 experts, and Commissioners or Commission staff.  
 10 CHAIRMAN SAHR: Thank you. That's  
 11 all the questions I have. Thank you.  
 12 MR. SMITH: Commissioner Hanson, do  
 13 you have any questions?  
 14 VICE CHAIR HANSON: Sure. Good  
 15 afternoon or morning, Mr. Reisenauer.  
 16 THE WITNESS: Good morning.  
 17 VICE CHAIR HANSON: Thank you very  
 18 much for coming before us and testifying. I'm  
 19 curious. Do you see any way in which LNP,  
 20 implementation of LNP, would be palatable to you?  
 21 I'm asking you to look at those challenges of  
 22 porting and routing, rates, et cetera. What items  
 23 do you -- another way to ask the question: What  
 24 items do you see that need to be overcome to make  
 25 LNP a palatable reality for you?

1 THE WITNESS: I would have to first  
 2 off answer in two parts. In response to that  
 3 question, I would say that if I felt there were  
 4 individuals that were -- and there would be a  
 5 demand for porting, I would support it  
 6 aggressively.  
 7 The second part of that answer is I believe  
 8 it's a viable option when the cost-causer is the  
 9 cost payer versus the members that remain picking  
 10 up that cost.  
 11 VICE CHAIR HANSON: So if the  
 12 cost-causer, and I know that has a number of  
 13 implications in it, were to be -- I know in your  
 14 eyes and your mind and many of these instances is  
 15 the -- in this example would be Western Wireless.  
 16 If they were to be required to pay for the cost  
 17 that they caused and other entities, ILECs were  
 18 still paying for the costs that they are  
 19 responsible for, then you would see that as a major  
 20 hurdle to overcome? Am I correct?  
 21 THE WITNESS: I would agree with  
 22 you.  
 23 VICE CHAIR HANSON: Okay. Thank  
 24 you.  
 25 THE WITNESS: Thank you.

1 MR. SMITH: Ms. Rogers.  
 2 MS. POLLMAN ROGERS: Thank you. I  
 3 have just a few questions on redirect.  
 4 REDIRECT EXAMINATION  
 5 BY MS. POLLMAN ROGERS:  
 6 Q With regard to the wireless carriers that we discussed  
 7 earlier, all of them are licensed to do business in  
 8 your area, the four that we talked about; is that  
 9 correct?  
 10 A To my knowledge they are.  
 11 Q And do you know if Mr. Williams, Western Wireless's  
 12 expert, used the same number of wireless carriers in  
 13 his calculations?  
 14 A I do not know that.  
 15 Q In follow-up to Commissioner Hanson's questions, do you  
 16 see a distinction between the provisioning of broadband  
 17 services wherein the customer that subscribes to the  
 18 service pays for it as opposed to LNP?  
 19 A Definitely.  
 20 Q And that would be in accordance with what you just  
 21 explained or --  
 22 A Yes. Again, the person who orders broadband pays for  
 23 the associated costs. LNP, the costs will be borne by  
 24 those members that are remaining.  
 25 Q Do you believe that LNP would be beneficial to your

1 consumers at this point, your customers?  
 2 A I don't believe there's a demand for LNP and I don't  
 3 believe it's beneficial at this point, no.  
 4 Q And that being the case, did you have any reason to  
 5 explore it or even look into it prior to the  
 6 Commission's Order of November 13?  
 7 A We have never had a request for wireline-to-wireline or  
 8 wireless-to-wireline porting so there was no reason to  
 9 research.  
 10 Q Perhaps I didn't hear you correctly but have you had a  
 11 request for wireline-to-wireless?  
 12 A We have not.  
 13 Q How many customers do you have?  
 14 A Approximately 3,775 in South Dakota.  
 15 Q Do you feel you know them quite well?  
 16 A Extremely well.  
 17 Q You have already testified you serve two counties that  
 18 are lower-income counties?  
 19 A Yes.  
 20 Q With regard to your particular company's case, just the  
 21 cost of upgrading your switches is still significant  
 22 even if you put the transport costs aside. Would you  
 23 agree with that?  
 24 A That is correct.  
 25 Q Okay. And, in fact, would some of your customers

1 consider a surcharge on their line of a dollar or \$2 --  
 2 how do you think they'd react to that?  
 3 A They would be very negative to an additional charge on  
 4 their bill.  
 5 Q You were asked about exploring other routing proposals,  
 6 in particular the one that maybe you see on the board  
 7 up here with regard to Qwest.  
 8 Prior to your coming here did Western  
 9 Wireless ever present you with any other proposals with  
 10 regard to routing?  
 11 A They did not.  
 12 Q And as you see the top portion of the chart up there on  
 13 the board, would you consider that a proposal?  
 14 A I would defer that to our cost consultant.  
 15 Q Okay. And do you believe that, for example, SDN has a  
 16 more reliable network than the Qwest tandem network?  
 17 A I do.  
 18 Q Okay.  
 19 MS. POLLMAN ROGERS: That's all.  
 20 Thank you.  
 21 MR. SMITH: Mr. Coit?  
 22 MR. COIT: No questions.  
 23 MR. SMITH: Mr. Wieczorek?  
 24 MR. WIECZOREK: I do have a couple  
 25 of follow-up.

1 RECROSS-EXAMINATION  
 2 BY MR. WIECZOREK:  
 3 Q First, when you answered the number of lines, you said  
 4 you have -- you set forth a number. I'm not sure I got  
 5 it exactly right, but you said in South Dakota?  
 6 A That's correct.  
 7 Q Do you have exchanges in other states?  
 8 A We do not have exchanges in other states. We do have  
 9 consumers in other states, yes.  
 10 MR. WIECZOREK: I apologize to the  
 11 Commission. I would like to mark an exhibit. I  
 12 only have one copy. It's essentially the identical  
 13 letter that I marked during Mr. Heiberger's  
 14 testimony, the December 19 letter proposing a  
 15 portability agreement from Western Wireless. And  
 16 that's Exhibit, I believe -- I believe, 4.  
 17 MS. POLLMAN ROGERS: Could I ask a  
 18 question? Is this a letter to ITC?  
 19 MR. WIECZOREK: This is a letter to  
 20 Jerry. It's the same letter. I'm just pointing  
 21 out so if you want to follow along, the body of the  
 22 letter is the same. Who it's addressed to -- I'm  
 23 sure I'll mispronounce your last name so I'm a  
 24 little nervous about it.  
 25 THE WITNESS: Reisenauer.

1 MR. WIECZOREK: I'm going to mark it  
 2 as Western Wireless 8.  
 3 MS. POLLMAN ROGERS: Could I just  
 4 see it.  
 5 (Exhibit WWC 8 is marked for identification)  
 6 Q I'm going to show you what has been marked as Exhibit  
 7 No. 8, Mr. Reisenauer. Do you recall receiving that  
 8 letter? You can take a second to review it.  
 9 (Witness examines document)  
 10 A I'm sorry. I do not recall receiving this letter.  
 11 Q Okay. That letter is a letter addressed to you;  
 12 correct?  
 13 A That is addressed to me, yes.  
 14 Q And that letter references the fact that Western  
 15 Wireless has sent you a local number portability  
 16 operations agreement as a proposal; is that correct?  
 17 A Yes.  
 18 Q Okay. Do you route these letters to somebody else in  
 19 your office when you get these types of things?  
 20 MS. POLLMAN ROGERS: I'm sorry. I  
 21 guess -- he said he doesn't remember receiving it.  
 22 A This particular letter that would have been associated  
 23 with number portability I would have retained. I would  
 24 not have routed it to another.  
 25 Q So is it your testimony in front of this Commission

1 that you didn't receive this letter?  
 2 A No. My testimony is I do not recall receiving this  
 3 letter.  
 4 Q Okay. You testified -- Ms. Rogers asked you actually  
 5 whether Western Wireless had proposed any type of  
 6 routing or agreements. You'd agree if you would have  
 7 received this letter or assuming that you received it,  
 8 that Western Wireless is making proposals for  
 9 agreements; correct?  
 10 MS. POLLMAN ROGERS: Just a minute.  
 11 I believe what I asked him is if Western Wireless  
 12 ever presented the proposal that is  
 13 theoretically -- if we call it a proposal, the one  
 14 on the board to him prior to this hearing. I  
 15 believe that was my question.  
 16 MR. WIECZOREK: Okay. Assuming  
 17 that's your question I'll ask it that way, if  
 18 that's all right.  
 19 Q You've admitted receiving a BFR from Western Wireless;  
 20 correct?  
 21 A That is correct.  
 22 Q And you have never contacted Western Wireless about any  
 23 options for LNP implementation or any possible routing  
 24 agreements, have you?  
 25 A We have not.

1 MR. WIECZOREK: That's all I have.  
 2 MR. SMITH: Thank you. Ms. Wiest.  
 3 RECROSS-EXAMINATION  
 4 BY MS. WIEST:  
 5 Q Does your broadband rate cover your cost?  
 6 A Excuse me?  
 7 Q Does your broadband rate cover its cost?  
 8 A When you say cover its costs, I question what costs you  
 9 are associating with broadband. Are you associating  
 10 total network costs? Are you associating the costs  
 11 just -- with broadband? When we replace plant, and I  
 12 believe I made that clear in my original testimony, we  
 13 replace plant based on the age of the plant, the  
 14 condition of the plant.  
 15 Today's technology is that fiber is the most  
 16 cost-effective replacement, and fiber does provide  
 17 opportunity for broadband. So if you're asking if the  
 18 total plant cost -- if our rate covers the total plant  
 19 costs, I would have to say no. There's some  
 20 incremental costs that could be associated with  
 21 broadband. There I would have a different answer. I  
 22 would say yes, we try to cover those incremental costs  
 23 that are associated.  
 24 MS. WIEST: Thank you. That's all  
 25 I have.

1 MR. SMITH: Chairman Sahr.  
 2 CHAIRMAN SAHR: I do have another  
 3 question based on a response to I think it was  
 4 either -- I think it was a question asked by  
 5 Ms. Rogers.  
 6 You talked about the comparison of the SDN and  
 7 Qwest systems and please -- you know, I'm going to  
 8 try to paraphrase your comment and not have to go  
 9 back in the record, but basically you said there  
 10 was some advantages to SDN I think in terms of  
 11 reliability and so on and so forth.  
 12 THE WITNESS: Yes.  
 13 CHAIRMAN SAHR: How did the costs  
 14 compare between SDN and Qwest systems?  
 15 THE WITNESS: I can't answer that.  
 16 We use SDN's system. I cannot make a comparison to  
 17 Qwest.  
 18 CHAIRMAN SAHR: Thank you. And I  
 19 may ask that question of Mr. DeWitte and see if he  
 20 knows anything about the comparison of the costs.  
 21 So thank you.  
 22 MR. SMITH: Further questions?  
 23 MS. POLLMAN ROGERS: No. I have  
 24 nothing further. Thank you.  
 25 MR. SMITH: You're excused,

1 Mr. Reisenauer. Tal, what's the date on the letter  
 2 you showed him on the exhibit, just so I can --  
 3 MR. WIECZOREK: It's marked up  
 4 there.  
 5 THE WITNESS: December 19.  
 6 MR. SMITH: I mean --  
 7 MR. WIECZOREK: December 19.  
 8 MR. SMITH: It hasn't been offered.  
 9 Just for my record.  
 10 MR. WIECZOREK: I marked it but he  
 11 couldn't recall it. I didn't offer it.  
 12 MR. SMITH: Okay. I know. Just for  
 13 my sheet here. I don't know -- you might offer it  
 14 in the future is the only reason so I know what it  
 15 is since I don't have a copy of it.  
 16 MR. WIECZOREK: I apologize for  
 17 that.  
 18 MR. SMITH: At this point,  
 19 Mr. Chairman, is it the pleasure of the Commission  
 20 to take a break right now?  
 21 CHAIRMAN SAHR: Yeah. I think it's  
 22 a good time to take a lunch break. Should we say  
 23 1:30? Does that work for people?  
 24 MR. SMITH: And then for the  
 25 purposes, I think, of witness planning -- and maybe

1 attorneys as well, who do the Petitioners intend to  
 2 call right after lunch? We'll go off the record,  
 3 Cheri. We're in recess until 1:30.  
 4 (A lunch recess is taken)  
 5 MR. SMITH: We'll go on the record.  
 6 We're back in session after our noon recess, and  
 7 per agreement with the parties, the next witness to  
 8 be called, as I understand it, will be Mr. DeWitte.  
 9 MS. SISK: Correct.  
 10 MR. SMITH: To conclude his  
 11 testimony with respect to the Dockets that have  
 12 been scheduled through today with the exception of  
 13 James Valley which we are continuing.  
 14 MS. POLLMAN ROGERS: Santel.  
 15 MR. SMITH: And Santel but that was  
 16 not scheduled until July 1.  
 17 MS. SISK: Correct.  
 18 MR. SMITH: With that, Ms. Sisk  
 19 please proceed.  
 20 MS. SISK: Mr. DeWitte.  
 21 MR. SMITH: You're sworn.  
 22 DIRECT EXAMINATION  
 23 BY MS. SISK:  
 24 Q You're the same Mr. DeWitte that testified previously.  
 25 Can you please state your name and address for the

1 record again?

2 **A** John Michael DeWitte, 1801 North Main Street, Mitchell,  
3 South Dakota.

4 **Q** Mr. DeWitte, I'm going to ask you to take a look at  
5 Brookings Exhibit 3, which is your direct prefiled  
6 testimony; Venture Exhibit 3, also your direct prefiled  
7 testimony; West River Exhibit 3, direct prefiled  
8 testimony; Stockholm Exhibit 3, direct prefiled  
9 testimony; and previously ITC Exhibit 4, prefiled  
10 rebuttal testimony, Mr. DeWitte, has been admitted into  
11 evidence but I'm going to ask you to take a look at  
12 that as well.

13 Did you prepare all of those documents?

14 **A** Yes, I did.

15 **Q** And do you have any additions or corrections to those  
16 documents?

17 **A** Yes, I do. Let me just quick thumb through these.

18 **Q** Before you do that --

19 **A** Yes.

20 **Q** When we discussed ITC Exhibit 4, the rebuttal, there  
21 were some corrections on the cost exhibit that we  
22 discussed with the Commission; is that correct?

23 **A** Yes.

24 **Q** And at that time you indicated you would provide a  
25 revised copy of that exhibit?

1 **A** Yes.

2 **Q** Do you have that with you today?

3 **A** Yes, I do. There was also one addition or adjustment I  
4 needed to make --

5 **Q** One moment. If we could hand that out before you  
6 discuss it.

7 **A** Okay.

8 (Discussion off the record)

9 **Q** Mr. DeWitte, did you have some additional corrections  
10 on the exhibit that was just handed out or the chart  
11 that was just handed out?

12 **A** Yes.

13 **Q** Can you please explain those.

14 **A** The first revision is a result of yesterday's testimony  
15 when I inadvertently had a math error in one of my  
16 Excel cells that created this spreadsheet. And so  
17 therefore if you look at the column Interstate,  
18 wireless carrier's point of interconnection, POI,  
19 nonrecurring transport costs, I've corrected that value  
20 to read 576,000 as opposed to the 720,000 that was  
21 inadvertently calculated and submitted with the  
22 exhibit. That number, of course, flows down and is  
23 used until the calculation in several other cells so  
24 the cells that use that number in its calculations also  
25 have changed.

1 Do you want me to go through all of the  
2 cells?

3 MS. SISAK: If the Commission would  
4 like Mr. DeWitte to go through all the cells, he  
5 can.

6 **A** The only thing that is really relevant is it does  
7 change the LNP cost-per-line calculations to 55 cents  
8 without transport and \$12.35 with transport. And of  
9 course if you take both of those times 12 percent you  
10 get the numbers that are right next to it, 61 and 13.83  
11 in the next column.

12 I made that change on all three of my  
13 exhibits, which is 3A, 3B, and 3C. It was the same  
14 change. And that was the change that we had talked  
15 about yesterday.

16 The other adjustment that I have made that  
17 was an inadvertent calculation -- or actually I plugged  
18 in the wrong number, covers Venture Communications. If  
19 you look at the top number where the column reading is  
20 LNP software features, I've reduced the effect of -- or  
21 the calculation for the amount of dollars that are  
22 required to upgrade Venture's switching network by  
23 3,200 lines times \$4. And the reason that change was  
24 made was because I had forgotten to delete the  
25 associated access lines associated with the Sisseton

1 switch which is already paid for and activated the LNP  
2 software feature.

3 MR. GERDES: So which figure  
4 changed on the exhibit?

5 THE WITNESS: The one that reads  
6 55.90 has changed.

7 MR. GERDES: Thank you.

8 THE WITNESS: 55,900.

9 MR. SMITH: The one that was 68,7.

10 MR. WIECZOREK: The LNP software  
11 feature.

12 THE WITNESS: Yeah. I reduced that  
13 by the number of lines in Sisseton. Sisseton  
14 already has it activated. That concludes my  
15 changes.

16 **Q** Do you have any additions or corrections to all of the  
17 Exhibit 3s before you or any of the Exhibit No. 3s  
18 before you?

19 **A** I guess that since the updates that I have made to  
20 Venture's are in this exhibit, I could make the same  
21 adjustment on Venture's numbers in their cost exhibit,  
22 you know, as part of my direct because that's where I  
23 pulled these numbers from.

24 So I guess I would also make that same  
25 adjustment, you know, reducing the number on that cost

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1 exhibit --

2 MR. WIECZOREK: Commission, may I

3 simply suggest, I believe he's testified in his

4 original direct that his 3A is his most accurate

5 numbers and rather than go through and adjust every

6 one, to the extent it differentiates between what

7 he's submitted, 3A overrules the earlier versions.

8 MR. SMITH: Ms. Sisak.

9 MS. SISAK: That's fine.

10 Q Do you have any corrections to your Exhibit 3 other

11 than your cost exhibit?

12 A No.

13 Q And if I were to ask you the questions that appear in

14 each one of the Exhibit 3s that you've put before you,

15 the same questions today, would your answers be the

16 same?

17 A Yes, they would.

18 MR. SMITH: May I ask one other

19 probably dumb question before we move along? I

20 thought Rolayne Wiest had another number issue.

21 MS. WIEST: Yes. Has that been

22 changed?

23 THE WITNESS: Yeah. That number was

24 actually correct on the exhibit but it was not --

25 MS. WIEST: It was the other way

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1 around.

2 MR. SMITH: It was the other way

3 around.

4 MS. WIEST: We're talking

5 administrative on the Interstate. In the testimony

6 he said it was 5,000, on the exhibit he said it was

7 8,000, and then yesterday he said it was supposed

8 to be 5,000 but actually it is supposed to be

9 8,000?

10 Yesterday when I asked you, you said the

11 correct number was 5,000, not 8,000, and that you

12 would correct that and run it through.

13 THE WITNESS: On this one, I forgot

14 to make that update. I could redo that and

15 resubmit it, I guess.

16 MS. WIEST: So it is supposed to be

17 5,000?

18 THE WITNESS: Let me look quick.

19 MR. SMITH: Which company was that

20 again?

21 MS. WIEST: That's ITC. That's my

22 recollection.

23 THE WITNESS: Yeah. I believe your

24 recollection is correct.

25 Yes. It should have been 5,000. So I will

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1 need to make that additional correction as well.

2 MR. SMITH: Either that or if you

3 want to -- or that will have drop-down effects,

4 though, won't it?

5 THE WITNESS: Yep.

6 MR. SMITH: Okay. I'm sorry.

7 THE WITNESS: Okay.

8 Q Can you please summarize briefly your testimony in the

9 Exhibit 3, 3s?

10 MR. WIECZOREK: I'm going to

11 interpose an objection to a summary at this time.

12 He summarized the basic framework of his testimony

13 already yesterday. The only really issues left are

14 the specific numbers as to the companies that he

15 hasn't already -- to the testimony.

16 MR. SMITH: Is that what you're

17 asking him? This is going to be limited to the

18 company -- because Exhibit 3 are the

19 company-specific documents.

20 MS. SISAK: I would limit the

21 summary to any new information in any of the

22 Exhibits 3 as it relates to a specific company. I

23 am not certain that the only change between the

24 exhibits is, in fact, the cost exhibits. I believe

25 there are, in fact, some additional changes in the

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1 written testimony aspect as well that Mr. DeWitte

2 may feel the need to summarize.

3 MR. WIECZOREK: I guess if he's

4 changing some of his prefiled testimony, maybe we

5 should do that through additions and amendments.

6 MS. SISAK: I'm not suggesting that

7 he's changing it.

8 MR. SMITH: If I understand it, what

9 he's going to summarize --

10 MS. SISAK: Is anything new? Not

11 new as a result of a change but different language

12 that did not appear in the ITC direct.

13 MR. SMITH: I'm going to overrule

14 the objection and allow you to proceed. However,

15 we don't want to replot general testimony. So keep

16 it specific to what's different about these

17 particular exhibits.

18 Q And if I may, I will ask you to only provide a summary

19 of any company-specific points that you think are

20 important to raise at this time.

21 A Okay. I guess to summarize, we did spend a great deal

22 of time yesterday talking about the basic framework

23 and, you know, how all the cost exhibits were put

24 together. And I guess the important things that I do

25 want to point out with this testimony is that, you

1 know, the numbers are based on contracts and things  
2 that we absolutely know will work. There's a  
3 reciprocal compensation agreement that talks about, you  
4 know, where points --

5 MR. WIECZOREK: I'm going to object.  
6 This is exactly what he talked about yesterday. He  
7 has nothing to do with specific company numbers.

8 MR. SMITH: Yeah. We're going to  
9 keep it -- maybe you don't need to make a summary  
10 if you feel that we can move on to the  
11 cross-examination that's specific to the companies.  
12 But anything that you want to say that's specific  
13 to the companies we're talking about today, which  
14 is Brookings, Venture, West River, and Stockholm.

15 A Yeah. The only other thing that I would add to that is  
16 the methodology that I used for all of the companies is  
17 the same with all of those exhibits in terms of the  
18 cost elements.

19 MS. SISK: I'd like to offer  
20 Brookings Exhibit 3, Venture Exhibit 3, Stockholm  
21 Exhibit 3, and West River Exhibit 3 into evidence.

22 MR. WIECZOREK: I have no objections  
23 to those exhibits.

24 MR. GERDES: No objection.

25 MS. WIEST: No objections.

1 MR. SMITH: Brookings 3, Stockholm  
2 3, Venture 3, and West River 3 are admitted.

3 MS. SISK: The witness is ready  
4 for cross-examination.

5 MR. COIT: No questions here.

6 CROSS-EXAMINATION

7 BY MR. WIECZOREK:

8 Q As I understand it, the revised spreadsheet that you  
9 just handed out still needs more changes on it;  
10 correct?

11 A There's one additional change.

12 Q You still have the spreadsheet in front of you, please,  
13 or do you?

14 A The new revised one?

15 Q The new revised one. You can work off of that.

16 A Okay.

17 Q Look at your new revised spreadsheet.

18 A Okay.

19 Q Let's talk about specific numbers as to Venture.

20 A Okay.

21 Q As to Venture, they have 27 exchanges; is that correct?

22 A I believe that is correct.

23 Q And you assumed five cell carriers who would each need  
24 a point of interconnect to every one of those  
25 exchanges; correct?

1 A That is correct.

2 Q And you assumed or actually I believe you even got an  
3 estimate that each one of those points of interconnects  
4 would cost approximately \$4,000 per exchange? Page 13  
5 of your direct in Venture, if you want to double-check.

6 A I believe I revised those transport numbers on my  
7 rebuttal.

8 Q I'm talking about the -- you're talking about the  
9 install number?

10 A The recurring charge.

11 Q I'm talking about the install number, \$4,000.

12 A I'm sorry.

13 Q Is that \$4,000 install cost correct?

14 A That is correct.

15 Q Okay. I said to you before you came up to the stand  
16 whether you were going to bring a calculator this time?

17 A I forgot it. Let me go grab it.

18 (Discussion off the record)

19 Q Do you have your calculator?

20 A I have my calculator.

21 Q Take your 27 exchanges times 5 --

22 MS. SISK: I'd like to object to  
23 this. I believe the purpose of cross-examination  
24 is to ask questions, not to have the witness  
25 conduct mathematical calculations. If there's a

1 question, please ask it.

2 MR. WIECZOREK: All right.

3 Q You messed up your install costs for Venture just like  
4 you messed up your number for Interstate. Why don't  
5 you check that and see.

6 A Okay.

7 (Witness examines document)

8 MS. POLLMAN ROGERS: Could we have a  
9 point of clarification here. I was of the  
10 impression that Mr. Houdek testified to 26  
11 exchanges, and as I count the number -- I thought  
12 that's what he said in response to Ms. Wiest's  
13 testimony.

14 MR. WIECZOREK: I'll use 26 in the  
15 calculation. That would be fine.

16 CHAIRMAN SAHR: And I have 26 down  
17 in my notes too.

18 MS. POLLMAN ROGERS: That's the  
19 number that's in his testimony.

20 (Witness makes calculation)

21 A I believe that number 2 should be 532.50.

22 Q Using 27 for number of exchanges? Before you rewrite  
23 it again and change your exhibit yet again, how many  
24 exchanges did you use --

25 CHAIRMAN SAHR: Excuse me. And I



1 apologize for interrupting. Could we go off the  
 2 record.  
 3 (Discussion off the record)  
 4 MR. SMITH: Please proceed.  
 5 Q Have you recalculated what the true install transport  
 6 cost is for Venture under your model?  
 7 A Yes, I have.  
 8 Q What's that number?  
 9 A That number is 500,000, which is the result of the  
 10 calculation of 5 CMRS carriers times 25 exchanges times  
 11 4,000.  
 12 Q Okay. That's \$125,000 less than what you have in your  
 13 Exhibit 3A; correct?  
 14 A Yes, it is. And I apologize for the math error.  
 15 Q And those were the numbers being relied on by  
 16 Mr. Houdek when he testified, the incorrect numbers?  
 17 A Yes.  
 18 Q You may also recall there was a number of witnesses  
 19 that deferred things to you this morning. Do you  
 20 recall that?  
 21 A Yes.  
 22 Q Let me just ask a couple of those questions so we get  
 23 those out of the way. You've already responded to the  
 24 fact that the Sisseton exchange is LNP compliant  
 25 already?

1 A I stipulated that the Sisseton exchange has the  
 2 software features activated. That does not mean that  
 3 it's LNP compliant or completely ready to go.  
 4 Q All right. Thank you.  
 5 A Okay.  
 6 Q Then there was a deferral from Stockholm as to how  
 7 Stockholm's handling ports given its EAS into Watertown  
 8 and she deferred that to you. Can you explain how  
 9 Stockholm's handling those ports?  
 10 A They don't have any ports right now. I'm not following  
 11 your question.  
 12 Q There's been no ports in Watertown in that EAS system?  
 13 There's a routing issue if there's a ported call come  
 14 in under that EAS, isn't there?  
 15 A I don't believe that they've run into any problems at  
 16 this point. I'm not aware of any.  
 17 Q Okay.  
 18 A But their traffic is currently being routed based on  
 19 the translations that are there today.  
 20 Q And I forgot and I apologize for making you jump back.  
 21 3A, that new \$500,000 number that we've come up with,  
 22 that's still under your theory where you would have  
 23 five cell companies having the point of interconnection  
 24 into every exchange on Venture; correct?  
 25 A It would be five CMRS carriers, not necessarily cell

1 companies, but yes.  
 2 Q And those numbers assume -- those numbers -- that  
 3 \$500,000 includes point of interconnections with Nextel  
 4 and Sprint PCS; correct?  
 5 A I'll have to check for sure, but I believe that is  
 6 correct.  
 7 Q Okay. There was cross-examination by Ms. Rogers where  
 8 she was asking some of the corporate witnesses whether  
 9 they knew -- whether Mr. Williams used the same number  
 10 of CMRS providers that you did in your number analysis.  
 11 Do you recall those --  
 12 MS. POLLMAN ROGERS: Excuse me.  
 13 MR. WIECZOREK: Examination, I'm  
 14 sorry, redirect.  
 15 Q Do you recall those questions?  
 16 A I recall there were questions about those. I don't  
 17 recall the answers verbatim, but continue.  
 18 Q You reviewed Mr. Williams' testimony that's been  
 19 prefiled in this case; correct?  
 20 A Yes, I have.  
 21 Q And I'm going to show you what has been marked as  
 22 Western Wireless Exhibit 1, just for your ease. When  
 23 you reviewed that testimony you reviewed his  
 24 spreadsheet; correct?  
 25 A Correct.

1 Q And I am showing that spreadsheet to you right now  
 2 which is marked 5B to Western Wireless Exhibit 1?  
 3 A Correct.  
 4 Q When Mr. Williams did his calculations based on the  
 5 Western Wireless proposal for Venture, what did he come  
 6 up with for cost of point of interconnection?  
 7 MS. SISA: I'm not sure if that's  
 8 an objection or a clarification but you're saying  
 9 that -- what proposal are we referring to?  
 10 MR. WIECZOREK: I said when  
 11 Mr. Williams did his proposal of the cost for  
 12 Western Wireless.  
 13 MS. SISA: You're talking about the  
 14 Qwest tandem proposal?  
 15 MR. WIECZOREK: Yeah. The proposal  
 16 that's contained in Mr. Williams' testimony for his  
 17 cost analysis.  
 18 Q What did he come up with for an install cost?  
 19 A For which company, please?  
 20 Q Venture.  
 21 A He had \$800 nonrecurring, 118 recurring.  
 22 Q How about for West River?  
 23 A For West River Mr. Williams had \$400 nonrecurring, \$59  
 24 recurring.  
 25 Q How about Swiftel?

1 A Mr. Williams had \$400 nonrecurring, 118 recurring.  
 2 Q And Stockholm?  
 3 A \$400 nonrecurring, \$500 recurring.  
 4 Q Now even assuming Mr. Williams used all the same number  
 5 of CMRS providers that you did in your cost  
 6 calculations -- and I'll let him testify to that when  
 7 he's on the stand, you would agree with me that his  
 8 cost calculations are substantially lower for transport  
 9 both recurring and install than what you've come up  
 10 with; correct?  
 11 A I would agree they are lower. However, I don't know  
 12 what the basis is that he used to derive those, and I  
 13 can certainly explain the basis in which I used to  
 14 derive my numbers.  
 15 Q Did the basis of your numbers -- because I don't want  
 16 to rehash this, we went through the whole thing. But  
 17 to clarify it, you used the same mythology (sic) to  
 18 come up with the numbers for every one of these  
 19 companies; correct?  
 20 A Correct.  
 21 MR. GERDES: Are those old numbers,  
 22 Counsel?  
 23 MR. WIECZOREK: Well --  
 24 MS. SISK: I believe the question  
 25 was you used the same mythology to calculate your

1 numbers.  
 2 A I understood it to be methodology.  
 3 Q It could be interchangeable in this case maybe.  
 4 A I really resent that implication.  
 5 MR. WIECZOREK: That's all I have.  
 6 MR. GERDES: I have no questions.  
 7 MR. SMITH: Ms. Wiest.  
 8 MS. WIEST: Sure.  
 9 CROSS-EXAMINATION  
 10 BY MS. WIEST:  
 11 Q Okay. Going back to Swiftel or Brookings -- I'm sorry.  
 12 Going back to Swiftel, I believe it was the testimony  
 13 that they have one direct connection with Sprint PCS.  
 14 Do you remember that?  
 15 A Whose testimony?  
 16 Q The manager. I can't remember his name. Adkins.  
 17 A I was not here for Mr. Adkins' testimony.  
 18 Q Did you read his testimony?  
 19 A I read it a while ago. I can certainly review it  
 20 quick.  
 21 Q It is in his testimony that there's one direct  
 22 connection. And this is similar to the question I  
 23 asked before about Interstate which had four direct  
 24 connections. And my point is it shouldn't that  
 25 connection be subtracted from your number of \$20,000?

1 Isn't that one less connection that would have to be  
 2 done? I'm sorry. I'm talking about your  
 3 transport-related costs for POIs.  
 4 A Right. And I believe that I would have to check with  
 5 Mr. Adkins on that, but my recollection was when I was  
 6 putting those numbers together that, you know, they had  
 7 some sort of indirect connection, but, yeah, I believe  
 8 the answer to -- you know, that you're looking for is  
 9 if, in fact, they do have a direct connection between  
 10 their PCS switch and their switch that's located in  
 11 Brookings for their wireline services, then, yes, we  
 12 could subtract one DS-1 from those numbers.  
 13 Q Thank you.  
 14 A But my recollection is that they don't have a direct  
 15 connection there today. But I'd have to check that.  
 16 Q Can you go to your direct testimony in that case? That  
 17 would be in the Swiftel Brookings case.  
 18 A I have a copy.  
 19 Q Go to page 11, line 2.  
 20 A 11, line?  
 21 Q 2.  
 22 A I am there.  
 23 Q Oh, okay. On that line you talk about the recurring  
 24 administrative costs for -- for the administrative  
 25 costs and you state you base that on \$25 per port and I

1 believe the others were based on an hourly rate. Could  
 2 you tell me the difference in those calculations, why  
 3 you did a different calculation?  
 4 A Certainly. Let me look quick.  
 5 (Witness examines documents)  
 6 A I believe there's a typographical error in my actual  
 7 direct testimony.  
 8 Q Okay.  
 9 A Because the formula that's been used consistently  
 10 throughout all of the exhibits is calculated at  
 11 \$1.25 -- sorry. 1.25 hours per port at \$40 per hour.  
 12 And I believe that will give you -- when you do that  
 13 mathematical calculation of 1.25 times 4 times 40, that  
 14 calculates out to \$200.  
 15 Q Well, I thought you said that ITC, when you corrected  
 16 that testimony that was two and a half hours?  
 17 A That is correct. In conversations with Mr. Adkins he  
 18 felt like they could do it in a shorter amount of time.  
 19 Q Okay.  
 20 A That time was reflected in that calculation.  
 21 Q And then in Mr. Adkins' testimony he referenced 14,150  
 22 access lines. You reference 14,057. Is that just a  
 23 timing difference?  
 24 A I believe that could be a timing difference. I believe  
 25 the number that -- or the 14,057 number may be an

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1 annual average. But that's the -- you know, when we  
 2 were talking about the current number of access lines  
 3 that we needed to use, that is what number we had. I  
 4 can tell you for sure here quick.  
 5 (Witness examines documents)  
 6 A I thought they'd referenced that in my direct but  
 7 apparently not.  
 8 Q Okay.  
 9 A The 14,057 is a number that I did receive from Swiftel.  
 10 Q Let's just go on to Venture. I have a couple of  
 11 questions there. I believe there Houdek testified this  
 12 morning that he has four direct connections with two  
 13 different wireless carriers.  
 14 Did you subtract for those in your transport  
 15 costs for direct points of interconnection?  
 16 A No, I did not. If those were there, we can subtract  
 17 four of those off. Incidentally, do you want me to  
 18 subtract those off for the revised exhibits?  
 19 Q Sure. And that would be for ITC too.  
 20 A Right.  
 21 Q If you would just go to your direct testimony in 060.  
 22 A Okay.  
 23 Q Could you go to page 7, line 19. The heading under  
 24 technical implementation and testing.  
 25 A Uh-huh.

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1 Q At the very bottom there, could you explain each  
 2 appropriate exchange? Is that a particular number? We  
 3 couldn't figure out that number, how you came up with  
 4 72,500.  
 5 MS. SISAK: I'm sorry. I missed the  
 6 question. What number are we looking at?  
 7 MS. WIEST: We're looking at  
 8 technical implementation and testing, and the  
 9 number that he comes up with based on the  
 10 calculation if you look at Exhibit 3A, 72,500.  
 11 A That number is calculated at -- you know, on a  
 12 per-exchange basis, we had estimated that in looking at  
 13 all the different variations that were there, it would  
 14 be 24 hours per exchange. And we figured that there  
 15 would be a third-party resource doing it so it should  
 16 have included plus expenses in there because it rounds  
 17 out to be 24 hours at \$100 times 25 exchanges. And  
 18 then, of course, for each exchange there's  
 19 approximately \$500 worth of expenses in there. But it  
 20 also works out if you take 2,900 times 25.  
 21 Q Okay. Thank you.  
 22 A But that's the basis for where that was coming from.  
 23 MS. WIEST: That's all I have.  
 24 Thanks.  
 25 MR. SMITH: Commissioners?

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1 Questions?  
 2 CHAIRMAN SAHR: Mr. DeWitte, I'm  
 3 going to apologize if you've been asked this  
 4 question before. Did you analyze any other options  
 5 other than the ones that's been proposed in the  
 6 cost materials as far as ways to address the LNP  
 7 implementation?  
 8 THE WITNESS: Analyze in terms of  
 9 tried to calculate costs or analyze in terms of  
 10 coming up with alternative network configuration  
 11 solutions, et cetera?  
 12 CHAIRMAN SAHR: The second one.  
 13 THE WITNESS: Yeah. Actually we  
 14 talked about several different possible  
 15 configurations that could potentially work in this  
 16 case. You know, there are literally, you know,  
 17 thousands upon thousands of possible alternatives.  
 18 Some of them, you know, could even stretch the  
 19 realm of, you know, using packet switching, for  
 20 instance, or the packet network.  
 21 However, what we kept coming back to was the  
 22 simple fact that with everything that we needed to  
 23 make this thing work, we had to use the tools that  
 24 were at our disposal with the networks that were at  
 25 our disposal with the agreements that were at our

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1 disposal and come up with something that we could  
 2 present to this Commission that we absolutely knew  
 3 was rock solid and would absolutely work.  
 4 And, you know, our point as we've been going  
 5 through this whole thing; you know, I'm not denying  
 6 that there's other options. And I'm not denying  
 7 that transport's a huge part of what it is that  
 8 we're looking at.  
 9 But the bottom line is if we consider, for  
 10 instance, a packet solution we don't know whether  
 11 all the carriers would, A, be interested in packet  
 12 solution or, B, whether they have anything that  
 13 could even connect to a packet network.  
 14 There are no tariffed rates. Even the  
 15 Petitioners don't have switching rates or  
 16 transiting rates or anything like that for packet  
 17 traffic. You know, plus there's all the protocol  
 18 issues. But, you know, is it a viable option? You  
 19 bet it is. Everything's going to packet.  
 20 Similarly, you know, there was some talk about  
 21 perhaps using SDN. You know, absolutely a viable  
 22 option. The problem is is that there's no  
 23 agreements, there's no rates. You know, none of  
 24 those things have been developed so we didn't want  
 25 to present an option that, you know, clearly was

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1 not supportable costwise because of the missing  
 2 agreements or, you know, the missing pieces of  
 3 information that were needed to make it work.  
 4 So what we came up with was, you know, we took  
 5 a look at the reciprocal compensation agreement  
 6 that had been signed by Western Wireless and  
 7 assumed with an agreement like that in place with  
 8 every other wireless carrier we could use that as  
 9 our basis. And the basis of that agreement, if I  
 10 can paraphrase, is that if wireless traffic is  
 11 being -- I don't want to get this wrong. Anyway,  
 12 there's a paragraph in there and it talks about the  
 13 different types of connections, either a type 2-A  
 14 or a type 2-B, a type 2-A being a tandem  
 15 connection, type 2-B being direct connection. If  
 16 we assume type 2-B connections, the paragraph in  
 17 that reciprocal compensation agreement says that  
 18 that carrier will have an access in each local  
 19 calling area.  
 20 If we assume at some point in the next five  
 21 years the FCC is able to resolve some of the rate  
 22 center issues and make the reciprocal, meaning  
 23 wireless-to-wireline porting, possible, one of the  
 24 effects of that will be that number pooling will  
 25 probably be implemented. But the bottom line is

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1 that most carriers will more than likely have to  
 2 duplicate their point of presence in every rate  
 3 center, which is typically an exchange and you'd  
 4 have to have some sort of point of interconnection  
 5 in that rate center.  
 6 So for our initial costs based on the  
 7 reciprocal compensation agreement that's already  
 8 there plus, you know, the assumptions on, you know,  
 9 parity being -- you know, the FCC ruling that -- in  
 10 intermodal LNP that parity will eventually be there  
 11 meaning it can go both ways we'll have to have some  
 12 interconnection in each exchange.  
 13 So what we did was take a look at the cost to  
 14 put a DS-1 in every exchange and transport back  
 15 somewhere. I guess, you know, one of the things  
 16 that I think there's been a perception of, when the  
 17 BFRs came out, you know, I don't think that anybody  
 18 has denied that at the bottom of the letter, you  
 19 know, it probably said, yeah, if you have any  
 20 questions give me a call, depending on which  
 21 business writing style book that whoever was  
 22 drafting the letter came up with --  
 23 MR. WIECZOREK: I'm going to object  
 24 at this point. He's getting to his summary of the  
 25 testimony.

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1 MR. SMITH: I think we're back to  
 2 yesterday here. I don't want to --  
 3 THE WITNESS: Yeah. The only thing  
 4 that I wanted to belabor on that point --  
 5 MR. WIECZOREK: I'm going to object  
 6 because I don't necessarily want to open up all of  
 7 yesterday again, go back through that.  
 8 MS. SISAK: We would just request a  
 9 ruling on the objection.  
 10 MR. SMITH: The objection is  
 11 sustained, and, of course, the Chairman is the  
 12 Chairman and he's my boss so I'll let him make the  
 13 final decision.  
 14 THE WITNESS: I won't go into any of  
 15 that stuff other than to say yes, we talked about  
 16 other options. Those options did not appear to fit  
 17 into the framework, thus we chose what we chose.  
 18 CHAIRMAN SAHR: So packet was one,  
 19 you mentioned using SDN, DS-1s. Are those kind of  
 20 the main options that you looked at using?  
 21 THE WITNESS: Yes. We did not get  
 22 to the point of actually trying to cost anything  
 23 out or, you know, get any agreements in place --  
 24 CHAIRMAN SAHR: Thank you. That was  
 25 my next question was asking about cost. With the

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1 possibility of comparing SDN and Qwest, any  
 2 thoughts on that as far as the ability of one  
 3 versus the other?  
 4 THE WITNESS: I think on the surface  
 5 it would appear to be a reasonable comparison, but  
 6 I do think that it's very much not a trivial  
 7 analysis. You know, each company's cost -- you  
 8 know, the cost elements that go into their cost  
 9 study, their separations factors, all of those  
 10 regulatory things that go into developing what  
 11 their rate of return and their revenue requirements  
 12 need to be are all completely different.  
 13 So, you know, anything that involves looking  
 14 at the use of, you know, Qwest -- and you have to  
 15 take all of those underlying factors into account  
 16 to see what it is actually going to do to, you  
 17 know, their settlements, their revenues, all of  
 18 those types of things.  
 19 So, you know, just looking at, you know, one  
 20 piece of that cost and holding that up and saying,  
 21 see, it's cheaper does not paint an accurate  
 22 picture of what the total effect on the company  
 23 would be.  
 24 CHAIRMAN SAHR: And then this next  
 25 question might be a little bit outside the scope of

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1 your expertise so I'll ask you a leading question.  
 2 Are you familiar with the guidelines for how the --  
 3 how providers can implement -- let me rephrase  
 4 that.  
 5 Are you familiar with the guidelines on how  
 6 commissions can implement any costs or the  
 7 providers can implement costs relating to LNP? Or  
 8 are you strictly someone who looks at the system's  
 9 questions and runs the cost numbers?  
 10 THE WITNESS: Are you asking me  
 11 whether I know how to calculate the end-user fee?  
 12 CHAIRMAN SAHR: Well, really what I  
 13 was asking was one of the issues that's come up was  
 14 the number of carriers.  
 15 THE WITNESS: Uh-huh.  
 16 CHAIRMAN SAHR: I was curious if you  
 17 know whether it would be possible or not for some  
 18 type of -- I won't say sliding scale but some type  
 19 of LNP, should I say, charge -- surcharge  
 20 methodology where you could look and take that into  
 21 consideration because it seems like there are some  
 22 costs within your study that -- and models that  
 23 vary considerably based on the number of providers.  
 24 Here we are in many of the markets with maybe one  
 25 provider request again at this point in time and

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1 maybe two, three, or four somewhere on the horizon?  
 2 Do you know is there any flexibility on that?  
 3 THE WITNESS: If I understand your  
 4 question correctly, if I boil it down, is it  
 5 possible to create an end-user charge that ratchets  
 6 up every time you have another carrier that you  
 7 have to interface with and then you can include  
 8 those charges? Is that a fair summary?  
 9 CHAIRMAN SAHR: I think that's fair.  
 10 THE WITNESS: And the answer to that  
 11 is I have absolutely no idea. I don't have the  
 12 level of detail -- or the level of knowledge on  
 13 exactly what the NECA rules are on that  
 14 calculation.  
 15 My understanding is that once you create that  
 16 charge that's what it is unless -- you know, I know  
 17 that, for instance, Bell South, I read somewhere  
 18 where they were able to adjust and continue theirs  
 19 longer than the first five years in which they  
 20 placed it on bills, largely because there was still  
 21 some turmoil in the industry from when  
 22 wireline-to-wireline porting started and continuing  
 23 through intermodal. So, you know, it was kind of a  
 24 special circumstance.  
 25 But my understanding is once you set it you

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1 can't revise it. But I may be wrong.  
 2 CHAIRMAN SAHR: Thank you.  
 3 MR. SMITH: I have one, I think,  
 4 question related to all of these companies. And it  
 5 relates to yesterday when I asked you about that  
 6 chart up there. And instead of looking at that  
 7 particular solution, looking at that chart as a way  
 8 of visualizing how the James Valley proposed  
 9 solution would work.  
 10 And I guess the question I have is, is there  
 11 anything with respect to the -- what is it, four --  
 12 four companies that we are talking about right now  
 13 that would preclude a similar solution with respect  
 14 to these particular companies? Is there anything  
 15 different about the architecture or anything  
 16 compared with James Valley which would preclude a  
 17 answer like was found for James Valley?  
 18 THE WITNESS: The answer to that  
 19 question is it depends. Let me take them  
 20 individually. And I'll be very brief and short.  
 21 But in Swiftel's case they have one exchange with  
 22 one rate center. The James Valley solution would  
 23 absolutely work into their network. I think a lot  
 24 of the discussion there would, you know, depend on  
 25 if transport's taken out of the picture like it was

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1 in James Valley, exactly, you know what is  
 2 Swiftel's position on the remaining, you know,  
 3 charges or once those are gone away is that  
 4 palatable to them or not. And I don't know the  
 5 answer to that question.  
 6 But from a technical standpoint the James  
 7 Valley solution truly would work in theirs and then  
 8 it becomes a question of whether Western Wireless  
 9 or any of the other carriers, you know, feel like  
 10 they can, you know, enter into such an agreement.  
 11 And that's an economic analysis that they, of  
 12 course, would have to perform.  
 13 If we move onto Interstate, ITC, that model --  
 14 MR. SMITH: I think we dealt with  
 15 that yesterday.  
 16 THE WITNESS: I'm sorry. I was just  
 17 going down the Order. The next one would be --  
 18 MR. SMITH: Stockholm.  
 19 THE WITNESS: Let's go with  
 20 Stockholm next. That same model would also work  
 21 there. However, like in James Valley's case we  
 22 would likely have to split the DS-1 into, you know,  
 23 discrete DSOs going to each of their calling areas.  
 24 But, yes, that model would work there.  
 25 In the case of West River, again, they have a

1 host remote architecture with their DMS-10  
2 depending on where the point of interconnection and  
3 all of those other items I mentioned earlier, how  
4 that would work. In that particular architecture  
5 we would have to look at how many local calling  
6 areas that they have in their network, split the  
7 DS-1 and go in there. But the short answer is,  
8 yes, that architecture would fit there.

9 MR. SMITH: Venture.

10 THE WITNESS: Then in Venture I  
11 think their architecture would be slightly  
12 different with respect to the fact that their  
13 network architecture has 16 I'll call it  
14 stand-alone central offices and the rest are either  
15 remotes or concentrators. So one of the things  
16 that, you know, we would have to look at -- and I  
17 confess, without looking at their network diagram  
18 I'm not exactly sure how many local calling areas  
19 there are.

20 But let's just say that for the purposes of  
21 our example that each of the exchanges is a local  
22 calling area so I can do the math easy. That gives  
23 us 25. There's only 24 DSOs in a DS-1. So even if  
24 we tried to put everything on one DS-1 we would not  
25 be able to do so. We'd have to go with two.

1 MR. SMITH: Okay. At least with two  
2 DS-1s it could possibly work, even in Venture?

3 THE WITNESS: Right. That's just  
4 due to the number of exchanges they have. But  
5 obviously in all of those cases, you know, the  
6 transport, you know, would -- if we're emulating  
7 that model, you know, that transport would be --  
8 you know, the cost burden for that would fall back  
9 to the wireless carrier.

10 MR. SMITH: Thank you. Ms. Sisak.

11 COMMISSIONER BURG: I might follow  
12 up with just one quick, John. You work with other  
13 states as well; right?

14 THE WITNESS: Correct.

15 COMMISSIONER BURG: Have you worked  
16 this type of a configuration any place else?

17 MR. SMITH: Can I ask a clarifying?  
18 What type, Jim?

19 COMMISSIONER BURG: The type we're  
20 discussing, the option that Western's presented.

21 THE WITNESS: The answer to that is  
22 we have a lot of clients in the state of Iowa.  
23 Those clients were pursuing, you know, looking at  
24 options as well. We architected similar cost  
25 numbers for them. And you're probably aware of the

1 fact that the Iowa utilities board has given a  
2 blanket, you know, suspension to the carriers who  
3 were involved in what's referred to as the RETA and  
4 IUB combined petitions while they studied it  
5 further.

6 So most of them were looking at using INS --  
7 they were looking at using INS to at least purchase  
8 the transport where they would have to do these  
9 types of things. But the bottom line is, you know,  
10 that group of ILECs has a lot of the same concerns  
11 we've talked about before using Qwest as, you know,  
12 some of the companies in South Dakota. But that's  
13 Iowa.

14 And then in North Dakota the Commission up  
15 there -- I don't exactly know what the chapter and  
16 verse is but they quoted some state statute that  
17 basically said, you know, they don't have the  
18 authority to hear the case so they did not get  
19 suspensions. Those companies are all, you know,  
20 working to find, you know, some sort of transport  
21 solution as we speak.

22 And, you know, a lot of them are -- you know,  
23 could easily order this type of thing but, you  
24 know, they're looking at some other alternatives  
25 and, you know, to date there's been no demand for

1 it and nobody's ported so, you know, they haven't  
2 actually placed any of the ASRs for any of the  
3 facilities at this point.

4 And that's similar to some of the other  
5 states.

6 MR. SMITH: Ms. Sisak.

7 REDIRECT EXAMINATION

8 BY MS. SISAK:

9 Q I think I might just have one question. You were  
10 comparing the costs between some of the Petitioners,  
11 some of the switch-related costs, the costs to upgrade  
12 their switches. Can you just explain the difference,  
13 for example, between Stockholm and maybe some of the  
14 other companies with respect to their switch-related  
15 costs?

16 And I think -- excuse me, the specific  
17 reference, I believe, was if a James Valley type  
18 proposal was adopted, would that be acceptable to some  
19 of the other carriers or would it be feasible for some  
20 of the other carriers and I believe you mentioned  
21 switch-related costs in reference to that answer.

22 A Yeah. My point if we take a look at the bottom line  
23 for Exhibit 3A and, you know, we look at the numbers  
24 that are LNP costs including or excluding transport, if  
25 we refer to the James Valley solution as solving the

1 transport issue by having the wireless carriers  
2 actually order and, you know, accept the burden for the  
3 cost of those transport facilities, you know, then the  
4 question becomes if we add all of the other costs  
5 together that, you know, we've talked about, you know,  
6 throughout these last few days and, you know, divide it  
7 by the number of access lines they have and, you know,  
8 perform our mathematics on them, then the question  
9 becomes in the case of Swiftel is 74 cents palatable as  
10 an end-user charge or potential end-user charge? I  
11 don't know the answer to that question for Swiftel.

12 In the case of Stockholm, even if transport  
13 is gone, it's pushing \$5 per line. Is that palatable  
14 for Stockholm? And I believe Marj testified this  
15 morning it's highly unlikely her subscriber base would  
16 be able --

17 MR. WIECZOREK: I'm going to object  
18 to this kind of testimony. He's not been proffered  
19 as a witness to the public interest portion of the  
20 test.

21 MR. SMITH: Could you just kind of  
22 confine it to the numbers? Because I think the  
23 other thing is you don't know what they think, you  
24 know. So just talk about the numbers.

25 A I guess the way that I wanted to end with that then is

1 if we have a solution like the James Valley solution  
2 that takes transport off the table in terms of a cost  
3 that the Petitioner would have to absorb, you know,  
4 then the question becomes is it economically feasible  
5 for them to implement the service given whatever, you  
6 know, their potential end-user charge may end up being.

7 And the answer for that is for each  
8 individual company, I don't know what neighborhood they  
9 want that to be in.

10 MS. SISAK: Nothing further.

11 MR. SMITH: Mr. Coit?

12 MR. COIT: No questions.

13 MR. WIECZOREK: I have a couple and  
14 they're more clarification.

15 RE-CROSS EXAMINATION

16 BY MR. WIECZOREK:

17 Q I believe it was in response to Commissioner Burg's  
18 question. You said that you formulated some numbers  
19 similar to -- and you pointed, kind of gestured over to  
20 the poster boards, Western Wireless 5A and 5B. The  
21 implication was, as I understood the cost analysis you  
22 did for your Iowa clients, was based on routing similar  
23 to what's been proposed by Western Wireless here; is  
24 that correct?

25 A That's not correct. I was pointing to the bottom.

1 Q Okay. And then as to the North Dakota stuff not every  
2 ILEC in North Dakota is your client, are they?

3 A No.

4 Q So you can't testify as to intermodal porting has been  
5 taking place in those other LECs in North Dakota, can  
6 you?

7 A No. I can only speak to the ones that are North Dakota  
8 here, correct.

9 Q Okay. And it's my understanding that you're again  
10 going to modify your Exhibit 3A based on the mistake I  
11 found and based on the mistake Ms. Wiest found;  
12 correct?

13 A Yeah. There are two things that remain to be updated.  
14 One was an update from yesterday, and then we had the  
15 new update from today.

16 Q Well, I pointed out a problem and then I believe you  
17 conceded with Ms. Wiest that you would have to take off  
18 preexisting -- existing points of interconnect?

19 A Right. Right. Okay.

20 MR. WIECZOREK: I would just ask  
21 that he provide that update with written  
22 explanation of all the numbers he changed -- at  
23 least I'd ask two days before he testifies on  
24 behalf of Santel so if I have any questions I'd  
25 have a chance to review it and understand what he

1 did.

2 MR. SMITH: I think that sounds  
3 good. The one clarification I think is my  
4 recollection is with respect to Swiftel your belief  
5 was they did not have an existing --

6 THE WITNESS: Right. I will verify  
7 that and have the exhibit corrected accordingly.

8 MR. SMITH: Are we done? Ms. Wiest  
9 or Dave?

10 MS. WIEST: No.

11 MR. GERDES: No questions.

12 MR. SMITH: You're excused. Thank  
13 you.

14 THE WITNESS: Thank you.

15 (A short recess is taken)

16 MR. SMITH: We're reconvened.

17 Before we begin, Cheri brought to my attention that  
18 she has a scheduling -- she has a baby-sitter  
19 problem tonight and so we're going to have to knock  
20 off around 5:00 and, Mr. Coit, would you care to  
21 proceed with SDTA's case.

22 MR. COIT: Yes. SDTA along with the  
23 Petitioners at this time would call Mr. Steven  
24 Watkins.

25

1 STEVEN WATKINS,  
2 called as a witness, being first duly sworn in the  
3 above cause, testified under oath as follows:  
4 DIRECT EXAMINATION  
5 BY MR. COIT:  
6 Q Mr. Watkins, could you please provide your full name  
7 and address for the record.  
8 A Steven E. Watkins. My business address is 2120 L  
9 Street Northwest, Suite 520, Washington, D.C. 20037.  
10 Q And are you providing testimony in these LNP petition  
11 cases for both SDTA and also individually on behalf of  
12 each of the Petitioners?  
13 A Yes, I am.  
14 Q Where are you currently employed?  
15 A I am currently a single business person employed by  
16 myself. I'm affiliated with a law firm in Washington,  
17 D.C. that does work with small and rural telephone  
18 companies.  
19 Q Who is that law firm?  
20 A Kraskin, Moorman & Cosson.  
21 Q And you have provided I believe with your testimony an  
22 attachment summary of your work experience and  
23 education; is that correct?  
24 A Yes.  
25 Q Has that been filed with your direct testimony?

1 A Yes, it was.  
2 Q You have in front of you a couple of documents. Could  
3 you take a look at those, please. Could you identify  
4 for the record each of those documents?  
5 A Yes. SDTA 1 is my direct testimony filed in all of the  
6 Dockets on May 14, and SDTA 2 is my rebuttal testimony  
7 filed in the same proceedings on June 14.  
8 Q The testimony that you prepared, do you have any  
9 additions or corrections at this point in time that you  
10 would like to make to either of those?  
11 A No.  
12 Q If I were to ask you the same questions that I  
13 presented in each of those documents, would you provide  
14 the same answers today that you provided when they were  
15 filed?  
16 A Yes.  
17 MR. COIT: At this time I would  
18 introduce both SDTA Exhibit 1, which is the direct  
19 testimony, and also SDTA Exhibit 2, which is the  
20 rebuttal.  
21 MR. WIECZOREK: No objection.  
22 MS. WIEST: No objection.  
23 MR. GERDES: No objection.  
24 MS. POLLMAN ROGERS: We do not  
25 object.

1 MR. SMITH: I guess it's your own  
2 witness. Pardon me. SDTA -- or exhibits SDTA 1  
3 and SDTA 2 are admitted.  
4 Q At this time could you just provide a brief summary of  
5 what you've indicated in both the direct and rebuttal,  
6 please.  
7 A Yes. We're here to examine suspension of certain  
8 interconnection requirements pursuant to 251(f)(2)  
9 section of the Act. Under Section 251(f) Congress  
10 provided broad protections to small and rural telephone  
11 companies in the form of exemptions from the most  
12 onerous interconnection requirements and the  
13 opportunity to obtain suspensions and modifications of  
14 others.  
15 Since Congress passed this provision the  
16 courts have confirmed and strengthened the intent that  
17 Congress had with these provisions. Congress intended  
18 that the interconnection requirements only be applied  
19 to the small and rural telephone companies and  
20 consequently impacting their rural customers in a  
21 manner that would avoid certain adverse consequences,  
22 particularly economic burdens on the users in rural  
23 areas, economic burdens on the small telephone  
24 companies themselves, also to avoid requirements that  
25 might be technically infeasible.

1 Based on that criteria State Commissions have  
2 the sole authority to suspend or modify particular  
3 interconnection requirements based upon consistency  
4 with the public interest, convenience, and necessity.  
5 Local number portability is one of those certain  
6 requirements that needs to be conditioned properly.  
7 First, the costs to implement number portability are  
8 significant. Now I know you've heard witnesses and I  
9 know there's a debate about what the components of  
10 those costs are and there's a whole lot of confusion as  
11 to what those costs are. Part of that confusion is  
12 brought on by the fact the FCC hasn't fully resolved  
13 all of those issues. Regardless of that debate, the  
14 costs are more than inconsequential. Someone will have  
15 to bear those costs, either end-users in the form of  
16 new surcharges or potential cost recovery of rate  
17 increases elsewhere or the LECs through some sort of  
18 hidden costs or some sort of competitive disparity  
19 created by requiring local number portability. And the  
20 costs are made more onerous by the fact there are  
21 uncertainties as to what they ultimately would be.  
22 Second, even if we implement it end-users  
23 will bear these costs but for no real purpose for the  
24 time being. For many reasons wireline-to-wireless LNP  
25 demand in rural South Dakota does not and will not



1 exist for the foreseeable future. In fact, there is no  
2 evidence of demand for LNP. The anecdotal experience  
3 we have in the urban areas with the Bell companies in  
4 the top 100 MSAs shows that there's very little demand  
5 for wireline-to-wireless porting. For several reasons  
6 that demand would be even less in rural areas.

7 One, wirelines -- rural users have a greater  
8 dependance on reliable service and for the time being  
9 view their wireline service as the dependable service.  
10 Their remoteness demands that they have a dependable  
11 service and they don't have fall-back for other types  
12 of services.

13 End-users typically don't abandon completely  
14 their wireline service and completely convert to  
15 wireless service. They may decide to use wireless  
16 service and may find it useful for its mobile component  
17 but generally don't abandon their wireline service.  
18 The point being is that rural customers continue to  
19 obtain mobile services without really needing to port  
20 their numbers.

21 There's an irony here that some rural  
22 customers might come to one of the towns here in  
23 South Dakota and say, hey, I want to -- if we were to  
24 implement LNP, I want to port my wireline telephone  
25 number to wireless service and the wireless service

1 provider could give them a phone and they could go home  
2 and they could find out that they don't even have  
3 service where they live.

4 Therefore, we have higher relative costs for  
5 the LNP deployment in rural areas, which results in  
6 economic burdens for the users, economic burdens for  
7 the companies. There's little or no benefit because  
8 there's really no real demand. This is a situation  
9 Congress intended to be conditioned pursuant to  
10 251(f)(2) in a manner that would be consistent with the  
11 public interest.

12 Third, there is a continuing debate about  
13 exactly what the FCC did last November in its LNP  
14 Order. That debate will continue. For the short  
15 amount of time I've been here today, I see that there's  
16 a lot of confusion as to exactly what the FCC meant by  
17 its requirements.

18 While the FCC recognized that the routing of  
19 calls in an LNP environment is an issue that's related  
20 to some of the questions that have been presented, they  
21 decided to defer resolution of those issues to some  
22 future proceeding. In any event, the FCC's decision  
23 seemed to be based upon presumptions about what  
24 capabilities may exist or may not exist, seems to be  
25 based upon a framework that fits a typical large Bell

1 company and not the typical small and rural telephone  
2 company, seems to be based upon requiring carriers to  
3 do things that there's no requirements for them to do  
4 in the first place, or seems to be based upon small  
5 carriers incurring some sort of burden to potentially  
6 transport local traffic to some distant location.

7 It appears even that the wireless carriers'  
8 interest in these issues may have more to do with  
9 transferring that responsibility of transporting local  
10 calls beyond the small and rural LECs' service  
11 territories, more to do with that than with LNP.

12 The FCC started work on local number  
13 portability shortly after the Act was passed in  
14 the '96, '97 time frame. They did issue some rules  
15 regarding LNP, but those rules only applied to  
16 wireline-to-wireline number portability. At the time  
17 the FCC recognized that there was special issues  
18 associated with the differences in geographic scope  
19 between a typical wireless carrier and wireline  
20 carriers, this concept known as rate center disparity,  
21 and it's assigned those issues to an industry working  
22 group. And the FCC told the industry working group to  
23 go and study these issues and come back with  
24 recommendations.

25 The FCC promised when it got such

1 recommendations it would put those recommendations out  
2 for public comment and the industry would have an  
3 opportunity to comment on those recommendations. The  
4 industry work group that the FCC assigned these issues  
5 to has never resolved the intermodal issues. In  
6 November of last year the FCC decided out of the blue  
7 to completely abandon the process that it had promised  
8 to follow which is why we're left not understanding  
9 exactly what it is the FCC has required.

10 The form of number portability that we're  
11 required to implement is what's known as service  
12 provider number portability, and that is where a  
13 customer changes his or her service from one service  
14 provider to another and keeps his or her same telephone  
15 number, but at the same service location.

16 The debate will continue as to whether  
17 porting a number to a mobile user who obviously can  
18 move around the country, whether that constitutes at  
19 the same location or not. But the fact is at the same  
20 location has been rendered somewhat meaningless when  
21 the wireless carrier to which the number may be ported  
22 doesn't have any interconnection arrangements, doesn't  
23 have any business arrangements, doesn't have  
24 interconnection points in those areas that constitute  
25 service at the same location.

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1           Therein is where arises the confusion about  
2 the so-called transport issues.

3           At any rate, there is no obligation for small  
4 telephone companies to transport local calls beyond  
5 their own service territory. There simply does not  
6 exist any such requirement, and it certainly would be  
7 contrary to at the same location criteria of service  
8 provider number portability.

9           The other sidelight of the FCC's decision and  
10 because of this rate center disparity is there's a much  
11 greater chance competitively to port numbers from  
12 wireline to wireless than there is vice versa so there  
13 is a competitive disparity presented by the form that  
14 was adopted.

15           You have also probably heard some who  
16 suggest, gee, we should have known this was coming and  
17 why didn't we do anything. Well, the fact of the  
18 matter is that same industry work group that I  
19 mentioned a few minutes ago had continually reported  
20 there was no resolution to these issues and continually  
21 reported that there was no recommendation. So without  
22 a request and without a real reason to implement LNP it  
23 would have been somewhat foolish to spend the money.  
24 And without knowing how those issues would ultimately  
25 be resolved carriers wouldn't have known until November

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1           10 of last year that the FCC was going to come out with  
2 some novel approach.

3           It's no wonder that the states are all  
4 confused about all of this. It's difficult to say  
5 exactly, but I count at least 35 states where there's  
6 no suspension request activity underway and while it's  
7 difficult to say exactly where all of those stand and  
8 it changes daily, the majority of those states seem to  
9 be ruling -- finding merit in providing some sort of  
10 suspension relief.

11           So let me just summarize what it is we're  
12 requesting here. We would like to extend the current  
13 interim suspension until conditions consistent with the  
14 criteria that I just discussed under 251(f)(2) have  
15 changed such that there's a better balance in potential  
16 cost versus benefits and that the public interest has a  
17 better balance.

18           At a minimum, we don't think that sort of  
19 evaluation can take place until the courts and the FCC  
20 resolve the outstanding issues and there are other  
21 rule-makings that the FCC has still underway. In any  
22 event, the Commission should confirm that under no  
23 circumstances do the small companies have some sort of  
24 obligation to incur some sort of extraordinary cost or  
25 do something -- a superior arrangement for wireless

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1           carriers to transport local calls to some distant  
2 location.

3           Finally, if and when the suspension were  
4 discontinued the carriers would then need some  
5 sufficient time to plan for the hardware and the  
6 software and get it all working and put in place, all  
7 of the administrative processes.

8           So in summary, granted the suspension of the  
9 local number portability is necessary, one, to avoid a  
10 significant adverse impact on users in the form of  
11 surcharges and higher rates, all in light of the fact  
12 that there's very little, if any, demand, to avoid  
13 economic burdens on the companies in the form of  
14 unnecessary resource burdens to attempt to implement  
15 uncertain requirements and to avoid the imposition of  
16 requirements that could impose transport burdens well  
17 beyond those that are required of the carriers, well  
18 beyond what they do today, and beyond what is in place  
19 today or available today.

20           Any one of these single conclusions is enough  
21 to satisfy the criteria under 251(f)(2). Suspension  
22 would be in the public interest.

23           Q Thank you, Mr. Watkins.

24                   MR. COIT: I tender the witness for  
25 cross. I think the exhibits are already

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1           introduced.

2                   MR. SMITH: The exhibits are  
3 introduced. Mr. Wiczorek.

4                   MR. WIECZOREK: Mr. Smith, just one  
5 housekeeping matter. Because of the previous  
6 conference call where Mr. Larson on behalf of  
7 Santel couldn't be present, I think it should be  
8 reflected in the record that his partner is present  
9 here as he promised. So if there are any questions  
10 Santel has specific to Mr. Watkins, he could ask  
11 them.

12                   MR. SMITH: Do you want to make an  
13 appearance?

14                   MR. NIPE: I wasn't planning on  
15 making an appearance on the record here today, no.

16                   MR. WIECZOREK: The only reason I'm  
17 pointing it out is because the conversation was  
18 rather than having to bring Mr. Watkins back,  
19 Santel would make sure they had an attorney here to  
20 formally appear during his testimony so it could  
21 apply to that Docket.

22                   MR. SMITH: Are you suggesting he  
23 appear?

24                   MR. WIECZOREK: I'm just saying for  
25 completion of the record I don't want to get to

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1 next July 1 and have some argument that Santel  
2 wasn't represented at this proceeding because that  
3 was the agreement, that they would have counsel  
4 here so Mr. Watkins wouldn't be coming back next  
5 week, that his testimony would apply throughout.

6 MS. POLLMAN ROGERS: If I could  
7 interject here, if Mr. Nipe does not want to make  
8 an appearance on behalf of Santel, Mr. Larson had  
9 talked to me about also representing Santel at this  
10 time so there would not be the necessity to bring  
11 him back.

12 But I'm not trying to step in on anybody's  
13 toes. I think their interests are covered, but  
14 you're certainly free to step forward if you wish.

15 MR. SMITH: What's the pleasure  
16 of -- I'm going to go off the record here and let  
17 you guys talk this over, okay.

18 (Discussion off the record)

19 MR. SMITH: We're reconvened and  
20 back on the record.

21 Ms. Rogers, do you want to make an appearance  
22 on behalf of Santel?

23 MS. POLLMAN ROGERS: Yes. For the  
24 purposes of today's hearing I will be appearing on  
25 behalf of Santel as well. Thank you.

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1 (Discussion off the record)

2 MR. SMITH: Commissioner Sahr had a  
3 conference call he had to participate in for a  
4 little while. He should be back here momentarily.  
5 So for this portion of the hearing he'll have to  
6 read the record. We actually have that as a  
7 statutory provision here. So that's what he'll  
8 have to do.

9 COMMISSIONER BURG: He reads it  
10 twice anyway.

11 MR. SMITH: I'm sure he does. With  
12 that, Mr. Wieczorek, please proceed.

13 MR. WIECZOREK: Thank you,  
14 Commission, for bearing with that procedural  
15 requirement. I apologize, Mr. Watkins, for  
16 interrupting to take care of that issue.

#### 17 CROSS-EXAMINATION

18 BY MR. WIECZOREK:

19 Q To begin with, I just have a couple yes-and-no  
20 questions that more just to clarifying the extent of  
21 your testimony. And if you can answer them yes or no,  
22 I would appreciate it. If you do not feel you can  
23 answer them yes or no, I'd ask you to tell me you don't  
24 feel you can answer them yes or no. Is that fair?

25 A Okay.

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1 Q Now the opinions expressed by you in Exhibits 1 and 2  
2 of SDTA Exhibits 1 and 2 apply to all the 20  
3 Petitioners evenly; correct?

4 A Yes.

5 Q Okay. And as I have read your testimony, nowhere in  
6 your testimony do you single out a specific Petitioner  
7 and talk about how LPN may impact it specifically  
8 financially.

9 A No.

10 Q You understand that all the Petitioners in this case  
11 receive universal services high-cost support, don't  
12 you?

13 A I don't know that for a fact, but I'll take your word  
14 for it.

15 Q Okay. And would it surprise you to know that five of  
16 the companies you are testifying for receive in excess  
17 of \$400,000 a year in local switch support through  
18 USAC?

19 A That doesn't surprise me.

20 Q And are you also aware that the companies you are  
21 testifying for will be able to include the costs for  
22 the LPN update in their cost summaries to USAC to be  
23 considered in setting their future support?

24 A No. I think their costs for LNP are subject to a very  
25 special costing methodology that the FCC set forth that

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1 creates a surcharge that will be charged each and every  
2 one of their customers as an additional charge.

3 Q Okay. You're talking about the end-user surcharge that  
4 the federal law allows to be applied to each of their  
5 users?

6 A For specific LNP costs, yes.

7 MR. WIECZOREK: That's all I have.

8 MR. SMITH: Mr. Gerdes.

9 MR. GERDES: I was planning on  
10 relaxing for a moment. I have no questions.

11 MR. SMITH: Ms. Wiest.

12 MS. WIEST: Thank you.

#### 13 CROSS-EXAMINATION

14 BY MS. WIEST:

15 Q Mr. Watkins, could you go to page 6 of your direct  
16 testimony, please.

17 A Okay.

18 Q Looking at line 12, you state that the Commission,  
19 "should extend the suspension until the conditions have  
20 changed, and until such time as a per line cost of LNP  
21 is more reasonable compared to whatever demand, if any,  
22 may exist in the future."

23 My question is, how do you perceive that the  
24 per-line cost will become more reasonable at some time  
25 in the future when compared to demand?

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1 A I actually don't think it will change much from the  
 2 current position because I don't think there's going to  
 3 be that much demand from wireline-to-wireless number  
 4 portability in rural areas. But presumably there could  
 5 be and presumably things could change and that's where  
 6 we have State Commissions to use their judgment to  
 7 evaluate when that balance may change.  
 8 Q And wouldn't any increase in demand just serve to  
 9 increase the RLEC's cost because that means they're  
 10 losing that many more customers or not necessarily?  
 11 A Well, there's the cost of implementing LNP, which has  
 12 some number of porting-sensitive costs, but primarily  
 13 there are a bunch of fixed costs of investments. But,  
 14 yes, then there's the secondary impact on the companies  
 15 when they lose customers and lose revenue and have to  
 16 spread their network costs over a declining set of  
 17 customers which has a whole nother set of universal  
 18 service implications for rural areas.  
 19 Q Could you define what a reasonable per-line cost of LNP  
 20 could be?  
 21 A I'd say that it's not -- it's not reasonable, the ones  
 22 we were seeing here, given the fact that there won't be  
 23 any demand.  
 24 Q None of them would be reasonable?  
 25 A Right.

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1 Q And that would be under the cost witnesses, the  
 2 Petitioner's cost witnesses's estimates of cost?  
 3 A Yes.  
 4 Q Would that be true with Western Wireless's?  
 5 A Western Wireless's cost?  
 6 Q Yes.  
 7 A There is no provision in the Act to examine.  
 8 Q I'm sorry. Go ahead.  
 9 A To examine Western Wireless's. They don't have the  
 10 suspension request --  
 11 Q No. Their proposed costs in this case. Have you  
 12 looked at Mr. Williams' testimony with respect to what  
 13 he has stated?  
 14 A There was a whole lot of confusion about whatever it is  
 15 they proposed. I would say first they proposed, from  
 16 what I understand that somehow or another the LECs may  
 17 be required to be responsible for transporting costs  
 18 beyond their network, which I said earlier isn't a  
 19 requirement they have. So we wouldn't agree to do  
 20 that.  
 21 And the amount of costs that might be  
 22 incurred to do whatever resolution you come up with for  
 23 the transport issue is really unknown because we don't  
 24 know what the responsibilities are yet going to be.  
 25 So even under the best-case scenario of

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1 Western Wireless I would answer the question, yes,  
 2 they're still unreasonable given there's no real  
 3 demand.  
 4 Q Looking on the same page, page 6, line 17 you state  
 5 that, "Consideration of the criteria can't occur until  
 6 after issues pending before the courts and the FCC are  
 7 resolved."  
 8 Do you have any expected timeline for this  
 9 resolution to occur?  
 10 A Well, I keep getting word from FCC staff people that  
 11 they're going to address the transport issue, but I  
 12 don't know that for a fact. The porting interval  
 13 has -- there's a pending rule making and the comments  
 14 and reply comments have been filed. It's hard to  
 15 predict how quickly FCC works.  
 16 Q And the courts could take a number of years to come to  
 17 any final resolution?  
 18 A They could.  
 19 Q Could you go to page 8, please. Beginning on line 16,  
 20 where you state that the "Petitioners could bear some  
 21 costs to the extent they're not recovered from  
 22 subscribers or carriers."  
 23 Could you point to any specific costs RLECs  
 24 would be unable to pass on to a subscriber?  
 25 A Yeah. The methodology for the surcharge only includes

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1 specifically directly identifiable costs that are  
 2 associated with LNP. But typically there are other  
 3 upgrade costs that carriers incur in getting to the  
 4 point of providing LNP. And the transport issue, which  
 5 I understand you've kicked around considerably, is  
 6 another cost that wouldn't necessarily be addressed by  
 7 the surcharge that's potentially unbounded.  
 8 Q The RLECs could still pass those costs on to the  
 9 subscribers by an increase in local rates as they  
 10 suggest; isn't that correct?  
 11 A Which would be further economic burden to their  
 12 customers, which is the same reason we've asked for a  
 13 suspension.  
 14 Q On page 10, line 1 where you talk about  
 15 wireless-to-wireline porting, could you explain under  
 16 what scenario wireless-to-wireline porting is now  
 17 available and explain when it is not available?  
 18 A Only when the wireless mobile user has a telephone  
 19 number that has the same rate center as the wireline  
 20 LEC.  
 21 Q And that would exclude many --  
 22 A Well, the disparity occurs in that we can port wireline  
 23 numbers for a particular geographic rate center to a  
 24 mobile user who can subsequently move to California and  
 25 have service in California. But another mobile

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1 customer that's currently in California can't move to  
 2 South Dakota and port their wireless number to a  
 3 wireline carrier. That's the disparity that's created  
 4 because of the widely different concepts of service  
 5 area used by wireline carriers and wireless carriers.  
 6 **Q** And then could you go to your rebuttal testimony,  
 7 please. On page 14, and on my copy I only have that  
 8 single line on page 14, three lines. Is that correct  
 9 on your copy also?  
 10 **A** Yes.  
 11 **Q** Could you just read that complete sentence there?  
 12 **A** The one that starts "As"?  
 13 **Q** Yes.  
 14 **A** "As I concluded in my direct testimony, there are  
 15 technical infeasibility implications for intermodal  
 16 porting where there is no presence by the wireless  
 17 carrier in the area that constitutes at the same  
 18 location because there is no network or business  
 19 arrangement in place for routing of calls."  
 20 **Q** So is it your testimony that it is in fact technically  
 21 infeasible for any of the Petitioners to implement  
 22 intermodal portability?  
 23 **A** It's technically infeasible to do it with every  
 24 wireless carrier, I believe, because I don't think they  
 25 have such arrangements in place with every wireless

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1 carrier.  
 2 **Q** They could get arrangements in place, couldn't they,  
 3 with wireless carriers?  
 4 **A** They actually have no right under the statute to force  
 5 wireless carriers in these interconnection and business  
 6 arrangements.  
 7 **Q** So to the extent then any of the wireless carriers  
 8 don't have a point of connection within the rate center  
 9 you'd state that was technically infeasible?  
 10 **A** There's no existing arrangement to send the calls. It  
 11 either means we have to go out of our way to do  
 12 something extraordinary and superior at extra cost,  
 13 which I contend is not even something we're required to  
 14 do, or if we agree we're not required to do it, then  
 15 there's no existing facilities to route the calls which  
 16 makes it technically infeasible.  
 17 It doesn't really matter which way you say it  
 18 and it doesn't matter what way it comes out, it still  
 19 ends up being either an economic burden or infeasible.  
 20 **Q** Could you go to page 18. And I believe on line 17  
 21 could you read that sentence starting with the word  
 22 "However"?  
 23 **A** "However, the suggestion by Mr. Williams that a  
 24 Petitioner could be required to provision local  
 25 exchange carrier services would transport to some

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1 distant point or to purchase services from some other  
 2 carrier for transport of traffic beyond the  
 3 Petitioner's network, for example, Qwest to transport  
 4 traffic to the Qwest tandem, would represent just such  
 5 extraordinary arrangement not required of the  
 6 Petitioners."  
 7 **Q** Could you read the next line, please.  
 8 **A** "While an incumbent LEC may at the incumbent LEC's sole  
 9 discretion voluntarily agree to extraordinary  
 10 arrangements, the LEC would not do so unless the  
 11 carrier requesting such extraordinary arrangement is  
 12 prepared to compensate the incumbent LEC or be  
 13 responsible for extraordinary cost for such superior  
 14 arrangement."  
 15 **Q** Is it your understanding that transporting into the  
 16 Qwest tandem would be cheaper than establishing direct  
 17 connection with each CMRS carrier?  
 18 **A** It may be cheaper to some carriers, and when you factor  
 19 in all the factors of competition and looking after our  
 20 own rights as far as ability to identify traffic and  
 21 those kinds of things, it's debatable as to what the  
 22 most efficient arrangement would be from my client's  
 23 standpoint.  
 24 **Q** Setting aside most efficient, which would be the  
 25 cheaper one?

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1 **A** Well, I'm not sure that I understand what the exact  
 2 arrangement would be.  
 3 **Q** Did you review Mr. Williams' testimony?  
 4 **A** I did, but if we were to combine it all in a single  
 5 trunk group, that presents some competitive  
 6 implications and some other burdens on the carriers  
 7 which outweigh other cost considerations, and how it  
 8 all comes out in the balance is something that would  
 9 have to be evaluated.  
 10 **Q** Would you agree the costs are fairly extraordinary in  
 11 some cases under the direct connection arrangement as  
 12 proposed by the Petitioners?  
 13 **A** I do.  
 14 **Q** Could you go to page 21, please. Actually why don't  
 15 you go to 22. I think you've answered that question.  
 16 Page 22, please.  
 17 On page 22 I believe on line 2, "The  
 18 potential costs to transport traffic to some distant  
 19 point are potentially unbounded." Didn't Mr. Williams  
 20 outline costs for connecting to the Qwest tandem?  
 21 **A** Yeah. But Western Wireless is only one carrier among  
 22 many, and some wireless carriers contend that this  
 23 transport to some distant location should be some  
 24 absurd location several hundreds of miles away. And we  
 25 also have potentially competitive wireline LECs who

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1 have ISPs where there's huge amounts of traffic. So if  
 2 this kind of framework were to be imposed upon the  
 3 rural companies for all of those kinds of traffic, it  
 4 could amount to huge amounts of costs to transport  
 5 these calls.  
 6 **Q** And then also on page 22 you mention some routing  
 7 issues in reference at least in the Century Tel  
 8 decision. Could you explain that routing problem?  
 9 **A** Yeah. I'm not certain that I fully understand exactly  
 10 what the Century Tel issue is, but undoubtedly where a  
 11 number is ported to a wireless carrier that you don't  
 12 have any interconnection or business arrangements in  
 13 place, carriers are understandably going to scratch  
 14 their heads as to what it is they're supposed to do  
 15 when the FCC has said, well, we'll address that issue  
 16 later.  
 17 **Q** So is it the Petitioner's position that given their  
 18 current interim suspension they're not required to  
 19 route those ported calls?  
 20 **A** I'm not certain whether those kind of calls in the  
 21 Century situation actually are the same here. I'm not  
 22 certain I understand the facts of the Century Tel. I  
 23 understand there's going to be further action on the  
 24 facts of the Century Tel issue.  
 25 **Q** Could you go to page 23, please. Line 4, could you

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1 read that sentence, please?  
 2 **A** "Mr. Williams admits in his answer to Interrogatory 19  
 3 that Western Wireless is not required to use numbers  
 4 assigned by LECs and that it can obtain its own numbers  
 5 and not those assigned by LECs."  
 6 **Q** Would that mean Western Wireless's current subscribers  
 7 would need new numbers?  
 8 **A** In what respect?  
 9 **Q** You said that they can obtain their own numbers. I  
 10 think you're talking about problems with  
 11 wireless-to-wireless LNP?  
 12 **A** I think Mr. Williams was discussing the so-called  
 13 type 1 type interconnection. Are you familiar with  
 14 that?  
 15 **Q** Yes.  
 16 **A** Okay. My understanding is that the FCC declined  
 17 because there are special problems with type 1 porting,  
 18 that the FCC declined to adopt any rules regarding type  
 19 1 porting, but in any event there are a number of  
 20 issues associated with type 1 service that go beyond  
 21 just porting.  
 22 **Q** So but just speaking to your answer here, when you talk  
 23 about Western Wireless isn't required to use numbers  
 24 assigned by the LECs, they have in some instances. Is  
 25 that your understanding?

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1 **A** That is my understanding.  
 2 **MR. SMITH:** Can I interrupt one  
 3 second? I want to note for the record Chairman  
 4 Sahr has returned so he can find his reading  
 5 obligation.  
 6 **CHAIRMAN SAHR:** Thank you.  
 7 **Q** So in order to resolve any problems, would Western  
 8 Wireless's customers have to obtain new numbers?  
 9 **A** Again, I'm not so certain any type 1 number can be  
 10 ported so I'm not certain that that can occur anyway.  
 11 **Q** Could you go to page 27. On line 8, could you read  
 12 that sentence starting with the word "Further"?  
 13 **A** "Further, the Commission should confirm that the  
 14 Petitioners have no obligation to transport calls  
 15 beyond their service areas for purposes of LNP or any  
 16 other purpose."  
 17 **Q** Is it your understanding that that is an issue that is  
 18 currently pending before the FCC, the transport of  
 19 calls beyond service areas for the purposes of LNP?  
 20 **A** That's a fair assessment, yes.  
 21 **Q** And it is expected that the FCC will come eventually at  
 22 some point in the future to a decision on that?  
 23 **A** Yes. That's fair to assume, yes.  
 24 **Q** Given that, do you think that this Commission could  
 25 make a separate decision on that same issue?

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1 **A** Yes. Because this Commission has the authority to  
 2 arbitrate interconnection terms and it would presumably  
 3 be potential issues that arise in the course of  
 4 Interconnection Agreements.  
 5 **Q** Are you aware the FCC has stated that Interconnection  
 6 Agreements are not needed in order to implement LNP?  
 7 **A** Yes. And I also provided extensive discussion by their  
 8 own expert in an industry work group which said just  
 9 the opposite.  
 10 **Q** But that's in one of their most recent decisions, isn't  
 11 it?  
 12 **A** It is. It's a simple statement without any  
 13 explanation.  
 14 **Q** It is possible that if the Commission determines some  
 15 sort of transport obligation in these cases it could  
 16 conflict with a future FCC decision; is that correct?  
 17 **A** That's possible.  
 18 **MS. WIEST:** Thank you. That's all  
 19 I have.  
 20 **CHAIRMAN SAHR:** Commissioners, do  
 21 you have questions?  
 22 **COMMISSIONER BURG:** Yeah. I have a  
 23 couple. Mr. Wiczorek asked you a series of  
 24 questions on Universal Service Fund money. Do you  
 25 recall that?

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1 THE WITNESS: Uh-huh.  
 2 COMMISSIONER BURG: Did you hear  
 3 him -- I don't know how long you were here, but did  
 4 you hear him ask those of other witnesses?  
 5 THE WITNESS: Not exactly. Some  
 6 people have told me what went on.  
 7 COMMISSIONER BURG: There was a  
 8 couple of times he referred to them. Do you think  
 9 this would be a wise use of Universal Service Funds  
 10 would be to finance LNP and porting?  
 11 THE WITNESS: No. Because I still  
 12 believe that the costs really would be borne for no  
 13 real purpose. And so there are better things to  
 14 use Universal Service Funds for than to deploy  
 15 something that's really not even going to be used.  
 16 COMMISSIONER BURG: And,  
 17 furthermore, my concern is with the whole raft of  
 18 things with universal service that are  
 19 deteriorating the funds or depleting the funds we  
 20 may not be able to have them for the purpose they  
 21 were. One of those would be, if I'm right, let's  
 22 just suppose that a LEC in this case applied for  
 23 and got Universal Service Funds for LNP. And in  
 24 the case of Western Wireless having an ETC,  
 25 eligible telecommunications carrier customer in

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1 that area, their recovery would probably increase  
 2 because of that additional Universal Service Fund  
 3 because the ETC gives them whatever the cost of the  
 4 landline provider in that area gets, not what  
 5 actual costs are; is that correct?  
 6 THE WITNESS: That's correct under  
 7 today's rules of the FCC, yes.  
 8 COMMISSIONER BURG: So today if one  
 9 of the LECs got additional universal service moneys  
 10 because of implementation of this, the recovery  
 11 from a customer of an ETC provider, wireless  
 12 provider would actually increase?  
 13 THE WITNESS: Correct.  
 14 COMMISSIONER BURG: Okay. I wanted  
 15 to clarify that. That's all I have.  
 16 MR. SMITH: Commissioner Sahr.  
 17 CHAIRMAN SAHR: Good afternoon.  
 18 We've had some discussion about uncertainty from  
 19 the FCC and unresolved issues. And when looking at  
 20 whether or not LNP can be suspended, can we  
 21 consider that uncertainty as a factor?  
 22 And in particular I'm looking at the prongs  
 23 dealing with significant adverse economic impact,  
 24 unduly economically burdensome, technically  
 25 infeasible. And then it does talk about the public

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1 interest, convenience, and necessity. Does  
 2 uncertainty fit into any of those categories in  
 3 your mind?  
 4 THE WITNESS: The way I presented  
 5 that issue in my testimony was the uncertainty adds  
 6 to the potential economic burden on the companies  
 7 to try and implement something when they don't know  
 8 how they're supposed to be implementing it. And I  
 9 think you heard the debate about the whole  
 10 transport thing so that would be one of the  
 11 examples the uncertainty contributes to the  
 12 economic burden.  
 13 CHAIRMAN SAHR: Thank you.  
 14 MR. SMITH: Maybe you're not the  
 15 right person for this, to ask, but I'm going to try  
 16 it. Just so I think we have a clear understanding,  
 17 with the suspension of the LNP obligations will  
 18 that also completely disable the ability of  
 19 wireless-to-wireless portability with respect to  
 20 these areas?  
 21 THE WITNESS: Well, I think that's  
 22 probably an issue that has already arisen. There  
 23 may be some implications to that in that -- but the  
 24 same exact issues arise where there's no business  
 25 and interconnection arrangements in place, when

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1 numbers get ported, carriers don't know what to do  
 2 with the calls to the ported numbers, even in the  
 3 wireless-to-wireless situation.  
 4 MR. SMITH: Given that situation, is  
 5 there a technical solution for the wireless  
 6 carriers other than imposing an LNP obligation on  
 7 local carriers? Is there any other way to do that?  
 8 And if you don't know --  
 9 THE WITNESS: You mean, is there  
 10 some way to resolve all the dilemmas I've  
 11 suggested?  
 12 MR. SMITH: No. Just the wireless  
 13 to wireless.  
 14 THE WITNESS: I'm not sure.  
 15 MR. SMITH: Thank you. Mr. Coit.  
 16 MR. COIT: Thank you. I just have a  
 17 couple.  
 18 REDIRECT EXAMINATION  
 19 BY MR. COIT:  
 20 Q With respect to the question that Mr. Smith just asked  
 21 and I know you indicated that you're not sure, but do  
 22 you have any understanding as to whether a wireless  
 23 carrier that has a direct connect to a local exchange  
 24 company can perform and route to the appropriate  
 25 wireless carrier a call that is routed to a ported

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1 number from a landline customer?

2 A It's conceivable that, yes, you could route a call to

3 one wireless carrier and then they could deal with the

4 fault query and route it to the proper wireless

5 carrier, yes.

6 Q Thank you. The last question. Do you believe that

7 having answers to issues surrounding transport

8 obligations and cost are essential in this Commission

9 making a fair determination under the criteria under

10 251(f)(2)?

11 A Yeah. They are a necessary condition but not a totally

12 sufficient condition, yes.

13 MR. COIT: That's all I have. Thank

14 you.

15 MR. SMITH: Mr. Wieczorek.

16 MR. WIECZOREK: Nothing further.

17 MR. GERDES: Nothing.

18 MS. WIEST: Nothing.

19 MR. SMITH: Commissioners, do you

20 have any last questions for Mr. Watkins?

21 (No audible response)

22 MR. SMITH: You're excused. I guess

23 now maybe it's up to the Chairman to make an

24 executive decision here.

25 CHAIRMAN SAHR: Or the

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1 Commissioners.

2 MR. SMITH: Do you want to begin

3 with Mr. Williams immediately, or are you guys

4 prepared today to do that or would you rather wait

5 and start first thing in the morning?

6 COMMISSIONER BURG: How are we as

7 far as schedule?

8 MR. GERDES: We're right on

9 schedule.

10 MR. SMITH: Are you guys ready to

11 go? We're right on schedule. Even if we start

12 with Williams in the morning, I think we're on

13 schedule still.

14 COMMISSIONER BURG: I guess I

15 suggest we do that.

16 MR. SMITH: Take a break for an hour

17 and do something else? We're in recess until 8:30

18 tomorrow morning.

19 (Proceedings are in recess)

20

21

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23

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1 (Exhibits WWC 9 through 11 are marked for identification)

2 MR. SMITH: Good morning. Today is

3 Thursday, June 24, and the hearing in the LNP

4 Dockets is reconvened. Per discussions of

5 yesterday and a week ago, today is the day for

6 Mr. Williams. And with that, I'll turn it over to

7 Mr. Wieczorek.

8 MR. WIECZOREK: Western Wireless

9 would call Mr. Ron Williams to the stand.

10 RON WILLIAMS,

11 called as a witness, being first duly sworn in the

12 above cause, testified under oath as follows:

13 DIRECT EXAMINATION

14 BY MR. WIECZOREK:

15 Q Mr. Williams, could you identify yourself and who you

16 work for for the purposes of the record and for the

17 Commission?

18 A Yes. My name is Ron Williams, and I work for Western

19 Wireless Corporation.

20 Q And in front of you there is a -- well, you filed

21 prefiled testimony in this case; is that correct?

22 A Yes, I did.

23 Q And in front of you is an exhibit marked as Western

24 Wireless Exhibit 1. Can you identify that for the

25 Commission, please.

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1 A Yes. This is my testimony, prefiled testimony in this

2 case.

3 Q Do you have any changes, additions, or corrections to

4 that testimony?

5 A I do have a change, and I do have an addition. The

6 most significant change dealing with the exhibit -- I

7 think it was originally listed as Exhibit 5 to the

8 testimony involving costs, there's been a lot of

9 evolution of the costs in this proceeding and I have a

10 replacement exhibit -- or replacement exhibits to

11 capture that cost evolution and bring it up to

12 relatively current status.

13 Q Okay. I'm going to show you what has been marked as

14 Western Wireless Exhibits 9 and 10. Are those those

15 replacement exhibits that you just discussed?

16 A That's correct.

17 MR. WIECZOREK: The colorful one

18 will be 9 and the black-and-white's 10.

19 (Discussion off the record)

20 Q Just for the record, Mr. Williams, can you just give a

21 brief description of documents 9 and 10 and how they

22 amend your prefiled?

23 A Sure. The colored version starting on the first page I

24 have as Brookings, the way this is structured is in the

25 format that was originally presented by the Petitioners



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1 for these companies, and what I reflect in the first  
2 three columns of numbers are the progression of the  
3 Petitioner's cost study -- or cost submissions through  
4 the original petition and then their initial testimony  
5 and then reply testimony.

6 And then there is a column called Western  
7 original estimates, and that column both nonrecurring  
8 and monthly recurring represents what I had filed in my  
9 original petition, 5A.

10 Then there is another column immediately  
11 adjacent to that which is Western revised estimates.  
12 That column reflects Western's current estimates as of  
13 today based upon the Petitioner's projections for port  
14 volumes.

15 Down at the bottom of this page there's a  
16 line item you'll see that says ports per year. So what  
17 you've got here are Petitioner's projections based on  
18 those port numbers, you've got Western's projections  
19 based on those port numbers, and then the final column,  
20 which says Western's revised estimates, these are  
21 Western's estimates based on Western's annual port  
22 volumes.

23 And, again, so that reflects the difference  
24 both in terms of Petitioner's cost versus Western's  
25 costs also but also Petitioner's forecasted port

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1 volumes versus Western's forecasted port volumes. I  
2 tried to capture it here on one page.

3 I know there's maybe subsequent adjustments  
4 to some of the Petitioner's line items, but this  
5 generally captures where we were at at the beginning of  
6 the week.

7 **Q** Okay. And this consists of just the companies that  
8 Mr. DeWitte has testified for so far?

9 **A** That's right. These are the companies we've seen so  
10 far, and they're represented by Mr. DeWitte's cost  
11 testimony.

12 **Q** Just one clarification. The amendments that  
13 Mr. DeWitte has said he's going to be making on his  
14 numbers where he had misstated his numbers in his cost  
15 study, are those reflected in Exhibit 9?

16 **A** No. Not the ones we've heard over the last couple of  
17 days.

18 **Q** Okay. Could you explain to the Commission how Exhibit  
19 No. 10 modifies your testimony?

20 **A** Exhibit No. 10 based on what the Commissioner's concern  
21 about having a rate that approximates an end-user  
22 surcharge that would be filed for through a NECA tariff  
23 filing, what I did was went out Monday night and found  
24 a NECA tariff filing. In that filing was the model  
25 that NECA uses. It's a standard template for all of

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1 their companies that they use to produce a surcharge.  
2 What you see reflected on this exhibit, the  
3 black-and-white exhibit that says NECA model end-user  
4 charge rate development, this is their model with the  
5 numbers from the Western revised column here put into  
6 the NECA model.

7 The NECA model is different from what you  
8 have seen so far because it is intended to calculate an  
9 end-user rate that's recoverable over a five-year  
10 period, an end-user surcharge is recoverable over a  
11 five-year period. And it aggregates line items. The  
12 top line is really just the capital or start-up  
13 investment, the one-time charges. The expenses  
14 starting with line 5, those are the monthly recurring  
15 expenses. And then you've got -- then the access lines  
16 here reflect the -- access lines beginning at year zero  
17 and then decremented year by the line loss. We didn't  
18 project any line growth in our projections for these  
19 companies so this is assuming a net loss scenario with  
20 no line growth.

21 MR. DICKENS: Mr. Chairman, I  
22 apologize for interrupting Mr. Williams. I would  
23 like to object to any further reference to what has  
24 been marked as Exhibit 10 in the record. This is  
25 new evidence that Western Wireless is bringing into

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1 the proceeding that could have been filed with  
2 Mr. Williams' testimony, and I don't think now is  
3 the time to be bringing new exhibits in.

4 I don't object to Exhibit No. 9 since, as I  
5 understand from Mr. Williams' testimony, Exhibit 9  
6 brings current an exhibit based on some changes  
7 that we've made in the manner of corrections to  
8 numbers in our testimony. But I don't think that  
9 it's fair to the parties, especially the  
10 Petitioners, to be getting new evidence on cost  
11 after our cost witnesses have already been up and  
12 off.

13 So I would object to any further -- even  
14 though they haven't offered this exhibit, I don't  
15 particularly like Mr. Williams discussing it on the  
16 record either.

17 MR. COIT: If I could add a comment  
18 too, I would also -- I've got concerns about this  
19 particular exhibit in the fact that it's new  
20 evidence. We were just presented with this. We  
21 have not had an opportunity for our cost  
22 consultants to review it to see whether he's  
23 applied appropriate methodology. You know, he had  
24 an opportunity to put something like this in with  
25 his direct testimony and that was not done so we

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1 would also be objecting to -- I know it hasn't been  
 2 offered yet but we would like to see the Commission  
 3 not accept it.  
 4 MR. SMITH: Mr. Wieczorek.  
 5 MR. WIECZOREK: Could I ask just a  
 6 couple of preliminary questions of the witness so  
 7 we can establish why he's only recently developed  
 8 this?  
 9 MR. SMITH: Yes.  
 10 **Q** Just for the Commission's -- for the record,  
 11 Mr. Williams, when is the first time that you ran  
 12 across this NECA model?  
 13 **A** Well, the first time I actually was able to locate a  
 14 representation of the model was Monday night.  
 15 **Q** Okay. And I have -- I won't mark it at this time, but  
 16 I was going to offer it in case anybody wanted it, or  
 17 just give copies but I'm going to have him identify  
 18 what -- there is a copy of a May 17, 2004 NECA letter  
 19 that you found on the NECA website; is that correct?  
 20 **A** Yeah. This was in their recent tariff filings portion  
 21 of their website and the model was attached as part of  
 22 this tariff filing.  
 23 **Q** Okay. And you based the Exhibit 10 based on this NECA  
 24 tariff model that's part of their tariff filing?  
 25 **A** That's correct. It's the methodology that they have

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1 used for this tariff filing.  
 2 MR. WIECZOREK: Given that it's  
 3 just a recent discovery, information and model, I'd  
 4 ask the Commission's indulgence to let us add it to  
 5 his testimony. And if the Commission would like, I  
 6 do have copies of this. I made enough copies so if  
 7 there's questions on where it originated from  
 8 anybody could have it for review. I could either  
 9 mark it or distribute it.  
 10 MR. DICKENS: Mr. Chairman, might I  
 11 offer a brief response?  
 12 MR. SMITH: Why don't we hear from  
 13 the remaining parties.  
 14 MR. KOENECKE: I have nothing to  
 15 say.  
 16 MS. WIEST: Well, this is the first  
 17 I've seen of it. I guess if it was out May 17 I  
 18 would have hoped that they might have brought it  
 19 sooner, especially before the Petitioner's cost  
 20 witnesses were on.  
 21 MR. SMITH: Mr. Dickens.  
 22 MR. DICKENS: It's my understanding  
 23 this model has been available for years. I could  
 24 call Mr. Watkins for the limited purposes of  
 25 establishing that on the record. He's still here

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1 but the model's been available for years. The  
 2 filing that he's referring to has been available at  
 3 least since May 17 I believe the record reflects,  
 4 and I think it's just unfair to us to hit us with  
 5 new evidence at this late hour.  
 6 MR. SMITH: Can I ask, I mean, the  
 7 trouble I have -- I guess the dilemma is it  
 8 actually appears that this evidence might be  
 9 something the Commission might actually want to see  
 10 is I think the bad thing about excluding it. But I  
 11 do agree that somehow we have to have a way for it  
 12 to be done in a manner -- if they do want to see it  
 13 we've got to do it in a way it's done fairly.  
 14 Can you describe generally what it is so that  
 15 the Commissioners can make an informed decision of  
 16 whether they deem it of sufficient importance to  
 17 deal with.  
 18 MR. WIECZOREK: I'll let the witness  
 19 do that if that's all right.  
 20 MR. SMITH: Could you do that.  
 21 THE WITNESS: It's the mathematical  
 22 format that NECA uses to calculate the tariff,  
 23 end-user tariff or surcharge that becomes a part of  
 24 the NECA federal tariff for LNP cost recovery. And  
 25 NECA uses the inputs provided by their members, the

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1 telephone companies, and they put them into this  
 2 format -- or formula and so the formula's  
 3 consistent for their calculations.  
 4 The inputs are -- it's my understanding the  
 5 inputs are provided from the individual telephone  
 6 companies.  
 7 MR. SMITH: And, I mean, this is  
 8 then what's going to show up on a customer's bill?  
 9 THE WITNESS: Yes.  
 10 MR. SMITH: That's your  
 11 representation?  
 12 THE WITNESS: Yes. The numbers that  
 13 you have in these are Western's perspective on the  
 14 inputs.  
 15 MR. SMITH: This is your opinion of  
 16 what's going to show up on a customer's bill and  
 17 that's what's in the document?  
 18 THE WITNESS: Yeah. This would  
 19 calculate based on Western's cost estimates.  
 20 MR. SMITH: We're going to recess  
 21 for an executive session discussion on this.  
 22 (A short recess is taken at which time the  
 23 Commission meets in executive session)  
 24 MR. SMITH: We're back on the  
 25 record. We've discussed the objection, and we're

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1 going to sustain it. We believe the document --  
 2 that the Petitioners had no notice of the document,  
 3 and it's unfair at this late date to spring it on  
 4 them.  
 5 MR. DICKENS: Thank you.  
 6 MR. SMITH: I'm referencing Western  
 7 Wireless No. 10.  
 8 MR. WIECZOREK: Does the Commission  
 9 desire us to mark the actual letter that has the  
 10 model? I mean, as Mr. Dickens has said, it's a  
 11 well-known model. At least you'd have the document  
 12 in front of you in case staff or Commission wanted  
 13 to look at that model.  
 14 MR. SMITH: To me that's a public  
 15 document and if you would like to mark that, I  
 16 don't think that's prejudicial.  
 17 (Exhibit WWC 12 is marked for identification)  
 18 MR. WIECZOREK: With the  
 19 Commission's indulgence I'd like to just do -- as  
 20 to Exhibit 11, so we don't -- so the opposing  
 21 counsel knows where this originates, I served the  
 22 first page of Exhibit 11 late last week. This is  
 23 from a survey just completed, the numbers just  
 24 provided to Western Wireless last week.  
 25 There is a second page to that that I just got

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1 by e-mail last night. So I will say that -- so  
 2 there's no confusion about what I served and what  
 3 they've seen, the second page is new to opposing  
 4 counsel. And I don't want to cause any prejudice  
 5 so I'll have Mr. Williams identify the documents  
 6 and where they originate from but if there's an  
 7 objection because they've just seen that page, I  
 8 would understand.  
 9 MR. DICKENS: Could I ask -- is this  
 10 Exhibit 11?  
 11 MR. WIECZOREK: Yes. This is  
 12 Exhibit 11.  
 13 MR. DICKENS: Is this first page an  
 14 existing exhibit in the case?  
 15 MR. WIECZOREK: No. It was provided  
 16 subsequent discovery last week. They just got the  
 17 numbers last week.  
 18 MR. DICKENS: The documents you gave  
 19 us in discovery?  
 20 MR. WIECZOREK: Only the first page.  
 21 And that's the clarification I'm making. Given the  
 22 Commission's ruling on the last one, I wanted  
 23 clarification because if there's an objection to  
 24 page 2 because of the latest I would freely just  
 25 remove that from the exhibit.

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1 MR. DICKENS: The first page -- can  
 2 I have a moment?  
 3 MR. SMITH: Yes. We're off the  
 4 record.  
 5 (Discussion off the record)  
 6 MR. DICKENS: Do you want to move it  
 7 now, or we can have the discussion?  
 8 MR. WIECZOREK: I can move it now.  
 9 If there's an objection I can freely remove it. I  
 10 thought that's what you were looking at.  
 11 MR. COIT: I have a question, I  
 12 guess. Does Mr. Williams know enough about this  
 13 survey that he can answer questions on cross  
 14 regarding the specifics of this?  
 15 THE WITNESS: Yes.  
 16 MR. DICKENS: Are you offering it  
 17 now? Why don't you go ahead and offer it and then  
 18 we'll hash it out.  
 19 MR. WIECZOREK: I'll offer what has  
 20 been marked as 9, 11, and 12 as amendments and  
 21 additions to his testimony.  
 22 MR. SMITH: Well, I mean, he's  
 23 offering it. We haven't had any foundational  
 24 testimony yet, Ben. I think the only thing we're  
 25 talking about now is do you object to any of this

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1 on the grounds of unfairness because it's  
 2 information that you were not provided?  
 3 MR. DICKENS: I believe that we  
 4 would object to this Exhibit 11 because it's  
 5 evidence that could have been supplied in the  
 6 direct case.  
 7 MR. SMITH: I guess my understanding  
 8 was that it was supplied.  
 9 MR. DICKENS: I think it was just  
 10 supplied in discovery.  
 11 MR. WIECZOREK: Because it didn't  
 12 exist until last week. So as soon as I got it, I  
 13 supplied it in discovery. The question that  
 14 everybody asks here is whether there's any  
 15 modifications, corrections, or additions. This  
 16 came in late, and what I was saying to the  
 17 Commission because I guess I didn't want to get  
 18 into a surprise mode is the second page of it I  
 19 only got by e-mail last night, got it to print out  
 20 last night at midnight and that I would freely  
 21 remove it based on your earlier ruling they hadn't  
 22 had a chance to see it.  
 23 I did provide the first page as a supplement  
 24 to discovery, and I was going to ask him whether it  
 25 would be an addition to his testimony. But since

1 his testimony was due before the numbers were  
2 actually ever recorded by the survey company, I'm  
3 not sure how else you could do it except offer it  
4 as an addition.

5 MR. COIT: You could have  
6 supplemented your testimony; correct?

7 MR. WIECZOREK: Well --

8 MR. SMITH: I mean, is there a  
9 substantive distinction there in the sense that, I  
10 mean, you had it?

11 MR. DICKENS: We had one page of it  
12 since last week.

13 MR. SMITH: Right. The second page  
14 I think Tal has already agreed that's something you  
15 haven't seen.

16 MR. COIT: Excuse me, but I have a  
17 lot more concern about the second page. I guess it  
18 certainly would have been nice if they would have  
19 supplemented their direct so we knew page 1 was  
20 coming in. But with respect to the second page we  
21 don't know how this survey was conducted. There's  
22 numbers on there that deal with whether the  
23 landline provider or the landline subscriber feels  
24 they should have a choice in providers.

25 I mean, we're talking rural areas. What rural

1 areas? We have a lot of rural areas in  
2 South Dakota.

3 MR. SMITH: I know. I'm sure  
4 there's going to be foundation here, Rich. Do you  
5 want to just remove the second page so that part of  
6 it's out of the issue?

7 MR. WIECZOREK: That's where the  
8 start of it --

9 CHAIRMAN SAHR: I have a question  
10 about the second page. I'm just curious, what's  
11 the relevance of the second? Even forgetting  
12 foundation, is it relevant to the proceeding? I  
13 look at the first page and, you know, perhaps I can  
14 see where you'd go with that, but the second page  
15 I'm not sure if we're talking about  
16 wireline-to-wireless-porting, is it really relevant  
17 to those type of feelings.

18 MR. SMITH: We have one case where  
19 we do have wireline to wireline.

20 CHAIRMAN SAHR: Well, that's not his  
21 client.

22 MR. SMITH: Yeah. It's not his  
23 client.

24 CHAIRMAN SAHR: Mr. Koenecke may  
25 want to take the exhibit and run with it.

1 MR. WIECZOREK: When I was printing  
2 it out last night at midnight my judgment may have  
3 been blurred as to whether it's necessary to add.  
4 I will freely remove it. So when I offer 11 it  
5 will only be one page. So we don't have to discuss  
6 that issue.

7 CHAIRMAN SAHR: Midcontinent  
8 appreciates having it for future reference, though.

9 MR. SMITH: Okay.

10 MR. WIECZOREK: I'll ask the  
11 foundational questions if I could, Mr. Smith.

12 MR. SMITH: Please.

13 Q (BY MR. WIECZOREK) Mr. Williams, what is now the  
14 one-page document, Western Wireless No. 11, could you  
15 briefly describe when that information became available  
16 to you?

17 A Well, these represent results of a survey that was  
18 conducted -- commissioned by Western Wireless,  
19 conducted by an outside, you know, survey company.  
20 Those results became available -- it was my  
21 understanding the first results of the survey became  
22 available end of the day Wednesday last week and from  
23 the survey, the relevant questions of that survey to  
24 this proceeding were captured and summarized here.

25 Q Now there was a question as to the area covered. And

1 this was not limited to South Dakota; correct?

2 A No. This was a thousand consumers in rural areas  
3 within Western's service -- entire service area so that  
4 would cover parts of 19 western states.

5 Q Okay.

6 A But they were all rural consumers, yeah.

7 Q So you're not offering it for -- you're not offering it  
8 for determination that it be -- you're not representing  
9 it was limited in South Dakota, it covered every state  
10 that you guys have rural presence.

11 A Correct.

12 MR. WIECZOREK: With that, I would  
13 offer Exhibit 1 and the modifications 9 -- I want  
14 to make sure I'm offering the right ones, 11, and  
15 12 I believe would be the correct numbers.

16 MR. DICKENS: I'd like to just ask a  
17 clarifying question or two to Mr. Wiecezorek about  
18 Exhibit 9.

19 MR. WIECZOREK: Okay.

20 MR. DICKENS: Is Exhibit 9 merely  
21 Mr. Williams' attempt to bring his exhibit up -- 5A  
22 and B up to date based on the changes that we've  
23 made to our exhibits and the corrections and so  
24 forth the last couple of days?

25 MR. WIECZOREK: Not the last couple

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1 of days but every Petitioner has changed their  
2 numbers from the petition to the direct and then to  
3 rebuttal. And as I understand it that represents  
4 the first three columns.

5 Western's direct -- because the number the  
6 Petitioners was using, the petition numbers when we  
7 submitted our direct, the Western revised then was  
8 trying to pick up the revised from your direct and  
9 then there was a final Western revised estimates  
10 and it's my understanding that the really only  
11 change there is just the number of ports to  
12 represent the number of ports that Western would  
13 project to be in -- for wireless companies in that  
14 area.

15 And as further explanation, when the format  
16 was laid out in this situation where Mr. Williams  
17 was going to testify after every -- and the cost  
18 people were going to testify after every corporate  
19 guy we -- what his plan was was so the Commission  
20 could have all the numbers that had been presented  
21 in front of them in one sheet. And that's why  
22 there's different sheets for each company is  
23 because he thought he was going to be testifying  
24 after every corporate guy.

25 So that's why we're offering them all together

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1 at this time because he's going to be addressing  
2 these companies.

3 MR. DICKENS: I'm advised that there  
4 are mistakes in this new exhibit, but if the  
5 exhibit merely recaps what Western Wireless's  
6 numbers are based on our changes I don't think we  
7 have an objection to it. If it's come up with new  
8 numbers at this hour we do. And I just want to  
9 make sure that I understand.

10 MR. WIECZOREK: Yeah. And I will  
11 tell you I guess I don't know what mistakes they're  
12 pointing at. The one thing -- I guess I don't know  
13 what mistakes they're pointing at so I'm offering  
14 it and --

15 MR. SMITH: I'm going to admit 9,  
16 and you can deal with the numbers on  
17 cross-examination.

18 MR. DICKENS: Right. Since we just  
19 got this we may ask for a little indulgence.

20 MR. SMITH: Sure, sure, sure, Ben.  
21 I totally agree with that. Let's move along with  
22 No. 11, and I'd like to hear from Petitioners on  
23 No. 11. That's this thing.

24 MR. DICKENS: We have no objections.

25 MR. COIT: We have no objection as

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1 long as page 2 isn't a part of it.

2 MR. WIECZOREK: I agree. Page 2  
3 should be removed.

4 MR. SMITH: And No. 12?

5 MR. DICKENS: No objection.

6 MR. COIT: No objection.

7 MR. SMITH: Western Wireless's  
8 Exhibits No. 9, 11, and 12 are admitted --

9 MR. WIECZOREK: I'm sorry,  
10 Mr. Smith. I also moved No. 1, which is his  
11 prefiled testimony.

12 MR. SMITH: Is there an objection to  
13 1?

14 MR. DICKENS: No.

15 MR. COIT: No objection.

16 MR. SMITH: Western Wireless Exhibit  
17 1 is also admitted. And I had previously, although  
18 you didn't offer it, Mr. Wiecezorek, I denied 10  
19 before you even offered it.

20 MR. WIECZOREK: That's fine.

21 MR. SMITH: Okay.

22 MR. WIECZOREK: I know this is  
23 taking probably longer than necessary. There is a  
24 foundational exhibit -- or objection to a  
25 previously filed exhibit that I can have the

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1 foundation laid just very quickly by Mr. Williams  
2 so we can avoid it. We can get that exhibit  
3 cleaned up.

4 MR. SMITH: Please.

5 Q (BY MR. WIECZOREK) Mr. Williams, I'm going to show you  
6 what has been marked as Western Wireless Exhibit No. 6.  
7 This is the MIC filing.

8 A Yes.

9 Q Are you familiar with that exhibit?

10 A I am.

11 Q If you turn to, using the fax page numbers in the upper  
12 right-hand corner, page 19.

13 A Yes.

14 Q Which is the Certificate of Service of the MIC  
15 petition, does it show that you're on the service list?

16 A It does.

17 Q Okay. And is this a true and correct copy of that  
18 petition that you received pursuant to formal service  
19 from the MIC attorney?

20 A Yes.

21 MR. WIECZOREK: With that, I would  
22 move entry of Western Wireless Exhibit No. 6, given  
23 that I've laid that foundation.

24 MR. DICKENS: I'd like to ask what  
25 date you received that, Mr. Williams.

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1 THE WITNESS: Shortly after it was  
 2 filed. And I can't name the date that I received  
 3 it.  
 4 MR. DICKENS: A month ago?  
 5 THE WITNESS: Well, it would have  
 6 been just within a couple of days of the filing,  
 7 which would have been approximately a month ago.  
 8 MR. DICKENS: Yeah. We would  
 9 object. It could have been supplied with the  
 10 testimony or as a supplement to the testimony.  
 11 MR. WIECZOREK: In response,  
 12 Mr. Smith, we've already had at least one of the  
 13 Petitioners state that they received it. They  
 14 already had it in their possession. They already  
 15 have it. I'm not sure there's an obligation to  
 16 supply it.  
 17 MR. SMITH: Can I ask you, maybe  
 18 this is a dumb question but, I mean, one of the  
 19 problems I kind of have had with this exhibit isn't  
 20 really even a notice issue or anything like that.  
 21 In terms of it just being a public filing in the  
 22 State of Minnesota, I mean, I think that document  
 23 is freely usable by counsel as a legal authority,  
 24 as a legal document, you know, in briefs and  
 25 whatever. You can reference it.

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1 The thing that bothered me about the document  
 2 more than anything is whether there's foundation  
 3 for the fact that the particular methodology that's  
 4 laid out in Minnesota and the various numbers that  
 5 are in there are indicative of the situation here.  
 6 And to me, I don't mind admitting it to show what  
 7 somebody submitted in a petition in Minnesota, as  
 8 long as we have an understanding that we have no  
 9 basis for thinking that -- either way as to whether  
 10 or not that same opportunity is even available  
 11 here. At least I haven't heard that evidence yet.  
 12 MR. WIECZOREK: And I can live with  
 13 an admission based on that. I understand that.  
 14 CHAIRMAN SAHR: And I would agree  
 15 with the comments, and I also would add, I think,  
 16 obviously this is something when we take judicial  
 17 notice or if it's briefed, I think procedurally  
 18 this is actually being heard today in Minnesota or  
 19 something -- I think procedurally this has not  
 20 necessarily been adopted in Minnesota. So I think  
 21 that is at this point somewhat notable we don't  
 22 even know what the final resolution -- so I think  
 23 for comparison's sake it's something that can come  
 24 in from judicial notice, but it doesn't necessarily  
 25 mean it's dispositive of the weight that should be

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1 given to it or even if this could be done in  
 2 South Dakota.  
 3 MR. SMITH: Right. With that, I  
 4 will admit it subject to those limitations.  
 5 MR. WIECZOREK: Okay.  
 6 Q (BY MR. WIECZOREK) Mr. Williams, have you ever  
 7 testified in front of this Commission before?  
 8 A No, I have not.  
 9 Q Could you just kind of give a brief background of your  
 10 experience and education?  
 11 A Sure. I'm an employee of Western Wireless, been in the  
 12 regulatory department now for about a year. I really  
 13 come out of the operations side of the business. My  
 14 education is in economics and accounting as an  
 15 undergraduate and a master's in business  
 16 administration. I've been in the telecom business  
 17 about 15 years, about half of that time with a large  
 18 local exchange carrier, half of that time as a regional  
 19 operations manager for a wireless company, not Western  
 20 Wireless, and a couple of those years with a CLEC  
 21 start-up enterprise.  
 22 During the course of that time frame I've  
 23 been involved, as I said, in operations that --  
 24 specifically, among other things, involved in the  
 25 implementation and operation of wireline local number

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1 portability, both the old interim local number  
 2 portability as well as full number portability, and  
 3 then also more recently over the course of the last  
 4 year with wireless, implementation of wireless local  
 5 number portability, and in the last couple of months  
 6 with respect to intermodal aspects of wireless number  
 7 portability.  
 8 Q Can you give a brief summary of your testimony?  
 9 A Sure. My testimony was intended to be responsive to  
 10 the petitions and testimony of the Petitioners here.  
 11 Our situation is distinguished from the Interstate  
 12 Motion to Compel we heard on Monday in that ours is  
 13 based on a process of a bona fide request and our  
 14 intervention is associated with the existing bona fide  
 15 requests we have with these Petitioners as well as the  
 16 anticipated issuance of bona fide requests for some of  
 17 the Petitioners.  
 18 The intent of my testimony was to put the LNP  
 19 challenges you've heard about in a realistic context.  
 20 There's no question that implementation of LNP is a  
 21 challenging project. It's been challenging for  
 22 everybody who has implemented it. It was challenging  
 23 for Western Wireless, and it will be challenging for  
 24 the Petitioners.  
 25 I wanted to lay out the standards for LNP

1 suspension. You've heard those. You're familiar with  
2 them, but as an important part of my testimony, how  
3 those standards have been applied elsewhere. I've been  
4 an active participant in LNP proceedings very similar  
5 to that but also similar in purpose to this but  
6 different in format in several states.

7 I could compare the challenges -- my  
8 testimony compares the challenges faced by these  
9 Petitioners with the standard for the LNP suspension  
10 and hopefully I can cut through some of the confusion  
11 about LNP and about its implementation.

12 With respect to LNP, the Petitioners really  
13 have two obligations. They need to update their  
14 switches to be able to port out numbers, and they need  
15 to update their network to permit their customers to  
16 call ported numbers.

17 Now that last obligation is not the  
18 obligation that they've asked for a suspension of.  
19 They've asked for a suspension of porting their  
20 numbers.

21 These obligations, as I said, impose a  
22 difficult project, but it's not as complex as it's made  
23 out to be. In fact, it's not as complex as bringing  
24 DSL to the market, for example.

25 And then the other piece associated with

1 these obligations is we've had a lot of discussions,  
2 everybody's familiar with the November 10 Order from  
3 the FCC that set some of the parameters for  
4 wireline-to-wireless porting. My testimony does  
5 provide a reminder that that was merely a  
6 clarification. It was not a new direction issued by  
7 the FCC. The FCC took careful care in that Order to  
8 say that they had envisioned intermodal portability and  
9 all they were doing is clarifying the circumstances  
10 associated and the expectations associated with  
11 intermodal portability.

12 The Petitioners have made their petition for  
13 suspension as they -- at the state here. And they've  
14 asked for that suspension. The standards that the  
15 Commission must address are very high to grant a  
16 suspension. Significantly, the Petitioners must be  
17 viewed on an individual basis. They can't be viewed as  
18 a group. They each have to be assessed on their own  
19 individual merits.

20 Now we've seen from the Petitioners that  
21 there was care taken in developing costs that are  
22 unique to each one of these Petitioners, even though  
23 there was some similarities in terms of methodology,  
24 the costs are unique to each one of these Petitioners.

25 From some of the policy perspectives,

1 however, we haven't seen any evidence that there's any  
2 policy representations that are unique to these  
3 Petitioners. In fact, I think yesterday the statement  
4 was made that no individual assessments were made of  
5 the Petitioners relative to economic burden and adverse  
6 impact on consumers and -- or on demand issues that  
7 might affect the public interest.

8 My testimony presents evidence on that for  
9 each one of the Petitioners.

10 Getting back to the high standards,  
11 Congress -- this is a quotation from the First Report  
12 and Order relative to the suspension standard,  
13 "Congress intended exemption, suspension, or  
14 modification of Section 251(f) requirements to be the  
15 exception rather than the rule. We believe Congress  
16 did not intend to insulate smaller or rural LECs from  
17 competition." And it clearly says that to grant a  
18 suspension would be a unique or should be a unique  
19 consideration based on unique circumstances.

20 The three standards that apply here, and one  
21 of which must be met, we've heard about them, but I'll  
22 just go over them very briefly. Technical feasibility.  
23 Technical feasibility in terms of implementation and  
24 number portability and intermodal number portability  
25 was already addressed by the FCC. It's already been

1 addressed by all the rural carriers, including rural  
2 telcos that have implemented LNP. It's already been  
3 addressed in this proceeding. Technical feasibility is  
4 not an issue in this proceeding.

5 Another standard is undue economic burden.  
6 This is a standard that relates to the telcos or the  
7 Petitioner's wherewithal to implement number  
8 portability. We don't have any evidence that that is  
9 an issue in this case. Their criteria just isn't there  
10 that this is a cost that is undue in some way on these  
11 particular telephone companies. There are recovery  
12 mechanisms available for these telephone companies for  
13 number portability. In fact, there are two mechanisms  
14 available, and they may in some ways be duplicative.

15 They can recover these LNP implementation  
16 costs through an LNP surcharge that they can in essence  
17 flow through the direct costs number portability to  
18 their consumers. That is not a mandate. That's a  
19 choice. They also have recovery available to them  
20 through USF high-cost switching support. The costs  
21 they invest in number portability for switching  
22 equipment.

23 MR. DICKENS: Excuse me. I  
24 apologize so terribly for interrupting your summary  
25 but I would like to strike the reference to the

1 Universal Service Funding support. I don't believe  
2 that's in your direct testimony, is it,  
3 Mr. Williams?

4 THE WITNESS: I think I indicated  
5 that support would be available for these  
6 companies.

7 MR. DICKENS: Well, I don't want to  
8 interrupt your summary anymore. If you give me a  
9 page reference, I'll look at it and hold my  
10 objection in abeyance and raise it again if it  
11 appears improper. Can we go off the record for a  
12 moment?

13 MR. SMITH: Let's go into recess for  
14 a moment, Cheri.

15 (Discussion off the record)

16 THE WITNESS: I don't have the  
17 specific reference to USF support in my testimony.

18 MR. SMITH: I'm going to sustain  
19 Mr. Dickens' objection because right now we're  
20 dealing with you just summarizing what's in the  
21 document.

22 A And I was summarizing undue economic burden as a  
23 standard that needs to be met. I talked about  
24 recoveries available to these companies and my  
25 testimony sets forth that they have not met the

1 standard for undue economic burden.

2 The final of the three standards which must  
3 be met is significant adverse impact on users. We've  
4 heard about potential pass-through charges to users in  
5 this, but my testimony states that the Petitioners have  
6 not proven an adverse impact on users. I have made  
7 adjustments to the Petitioner claims in terms of cost  
8 impacts and what those might appear as in a  
9 flow-through means. I would contend that my  
10 projections are still higher than what I believe the  
11 final costs will be in terms of implementation to LNP.

12 And these costs that may flow through to  
13 consumers, they do get offset by economic benefits of  
14 competition. We are all familiar with the benefits of  
15 competitive entry and the tendency for markets to react  
16 to that through lower prices and improved service and I  
17 believe that will be the case with respect to these  
18 Petitioners.

19 One of these three criteria must be met and  
20 then there is a public interest standard that can be  
21 applied. The public interest standard for  
22 implementation of number portability was already tested  
23 at the national level several years ago, and it's been  
24 retested with the advent of wireless number portability  
25 and with discussions around the refinement of

1 intermodal portability.

2 One of the keystones of number portability  
3 was that it was always intended to be deployed at a  
4 national level and be a universal capability. All  
5 carriers were expected to participate in number  
6 portability as markets were ready to accept it. And  
7 that acceptance was driven by competition.

8 Public interest in this case is also driven  
9 by the fact that consistency within the state of South  
10 Dakota could be an important issue. Right now most of  
11 the consumers in South Dakota have the ability to port  
12 their numbers to a competitive provider. That's true  
13 in wireless. That is true in wireline.

14 Number conservation implications are  
15 associated with the implementation of number  
16 portability. It arrives on the same platform, same  
17 capabilities that we're talking about implementing  
18 here.

19 Competition and consumer choice, we know  
20 consumers want this. We've submitted evidence for it.  
21 There's other evidence from non-Western sources that  
22 indicate that migration from landline to mobile will  
23 occur. We believe it will occur here. We believe  
24 number portability is an enabler for that.

25 And finally with respect to the public

1 interest, there's an issue with respect to the fact  
2 that suspension for these Petitioners does not just  
3 impact these Petitioners' consumers. It impacts  
4 wireless consumers in other markets that these folks  
5 don't even serve. Today it is impacting the ability  
6 for wireless-to-wireless ports to occur in  
7 South Dakota, and it is impacting proper routing of  
8 calls to ported numbers. And that usually occurs when  
9 wireless carriers may have ported numbers in a market  
10 that is within the extended area calling service of one  
11 of the Petitioners and calls are being misrouted  
12 because in essence a number has changed hands between  
13 two carriers.

14 So there's a lot to think about on the public  
15 interest standard. This is not just about cost. This  
16 is about benefit, and it's also about, from a company  
17 perspective, revenue and financial wherewithal. And my  
18 testimony basically states that the Petitioners have  
19 failed to meet these standards for any suspension, let  
20 alone the indefinite suspension they're requesting.

21 They point to the uncertainty about  
22 indefinite suspension. The uncertainty that we have  
23 heard about may be more self-imposed than is imposed by  
24 the rules of number portability implementation. I have  
25 been, like all of you, here for several days now and I



1 wonder if the energy that has been put forward in the  
2 last several days were put forward months ago to the  
3 implementation of number portability where we would be  
4 today.

5 MR. DICKENS: Excuse me. I object.  
6 This is more new testimony that's not in his  
7 direct.

8 MR. SMITH: Overruled. Continue.  
9 A Relative to suspensions, the FCC has recently over the  
10 last six months denied many waivers. I know the waiver  
11 process is slightly different than the suspension  
12 process but it gets to the same effect. And the FCC  
13 denying those waivers has said you haven't met the  
14 standards, and we're going to -- basically we're going  
15 to give you 60 days to implement from our decision  
16 date.

17 I think that serves as a reasonable benchmark  
18 for this Commission. My testimony states that it  
19 should not be the presumption that once a company has  
20 received a bona fide request for number portability,  
21 and even if they have filed a waiver, that all activity  
22 relative to implementation should cease. There still  
23 is a prevailing obligation to implement number  
24 portability. The Commission in this case has granted  
25 an interim waiver or interim suspension pending a final

1 resolution. But there is much, much work that could go  
2 on in the intervening period, and I think 60 days  
3 after -- is appropriate once this Commission's  
4 decisions are made.

5 Other states they've worked with on number  
6 portability resolutions for very similar waivers -- or  
7 suspensions for rural carriers that have been handled  
8 in different ways in different states. In all of those  
9 states commissions have set firm dates for  
10 implementation within 2004. There's never been a  
11 question as to some indefinite contingent time period,  
12 it's always been a fixed date. And again, I would  
13 encourage while this process is ongoing that the work  
14 to implement LNP, which is the national policy, should  
15 also be ongoing.

16 That's my summary.

17 Q That concludes your summary?

18 A Yes, it does.

19 MR. WIECZOREK: I'd make the witness  
20 available for cross-examination.

21 MR. SMITH: Mr. Dickens?

22 MR. DICKENS: Yes. I'm going to go  
23 ahead of Mr. Coit for this witness.

24 MR. SMITH: Thank you.  
25

CROSS-EXAMINATION

1 BY MR. DICKENS:

2 Q Mr. Williams, good morning.

3 A Good morning.

4 Q If you would look at page 3, please, of your prefiled  
5 testimony, lines 8 and 9 you pose a question, "Is there  
6 a jurisdiction issue regarding waivers to LNP  
7 implementation?" Do you have that reference?

8 A I do.

9 Q And your answer on lines 10 and 11 is that, "I cannot  
10 give a legal opinion but I do believe there is an issue  
11 as to whether jurisdiction for LNP waivers is in the  
12 FCC or the State Commissions." Do you see that?

13 A I do.

14 Q Would you turn to page 6 of your testimony and read  
15 lines 14 and 15, please.

16 A "Section 251(f)(2) of the Act permits State Commissions  
17 to suspend the carrier's LNP obligations only."

18 Q After the word "only" the statutory standards are set  
19 forth; is that correct?

20 A That's correct.

21 Q On page 23 of your prefiled testimony you mention a  
22 letter on lines 17 and 18 from K. Dane Snowden, chief  
23 of the consumer and governmental affairs bureau of the  
24 FCC, that went to the president of NARUC. Do you see  
25

1 that?

2 A I do.

3 Q Give me a moment. I'm trying to find a reference point  
4 in this letter.

5 (Pause)

6 Q Could you turn to -- do you have that letter?

7 A I think it's Exhibit 7.

8 Q Yes. It is. If you would look down to the third  
9 paragraph, about midway, in the middle of that  
10 paragraph there is a sentence that begins "Of course."  
11 Do you see that reference?

12 A I do.

13 Q Would you please read that sentence into the record?

14 A "Of course states have jurisdiction to waive porting  
15 obligations for certain rural telephone companies under  
16 Section 251(f) of the Telecommunications Act."

17 Q Okay. And I believe that you were present in the room  
18 when an exhibit marked as Venture Exhibit No. 4, which  
19 was a letter from Chairman Powell of the FCC to the  
20 president of NARUC, was admitted into evidence. The  
21 letter is dated June 18. Do you recall that?

22 A I do recall.

23 Q Would you like a copy of the letter because I'm going  
24 to ask you to read a sentence or two from it?

25 A Is it one of the exhibits here?

1 **Q** It's Venture Exhibit 4. I've got an extra copy. Did  
 2 you find it?  
 3 **A** Here it is.  
 4 **Q** If you would look at the third paragraph on what has  
 5 been admitted as Venture Exhibit 4, there is I think  
 6 the third sentence begins, "The Small Business  
 7 Administration's office of advocacy, however," do you  
 8 see that reference?  
 9 **A** I do.  
 10 **Q** Would you please read that into the record? Begin  
 11 there, and then read through the end of the paragraph  
 12 into the record.  
 13 **A** "The Small Business Administration's Office of  
 14 Advocacy, however, has raised concerns about the  
 15 possible economic burden that intermodal number porting  
 16 may place on LECs that are small businesses,  
 17 particularly those in rural areas. Those concerns may  
 18 warrant flexibility in evaluating pending waiver  
 19 requests by small LECs under Section 251(f)(2).  
 20 Accordingly, and not withstanding Chief Snowden's  
 21 letter, I urge State Commissions to consider the  
 22 burdens on small businesses in addressing those waiver  
 23 requests and to grant the requested relief if the State  
 24 Commissions deem it appropriate. I also request that  
 25 you share with NARUC's membership this letter

1 encouraging State Commissioners to closely consider the  
 2 concerns raised by small LECs petitioning for waivers."  
 3 **Q** Thank you. Mr. Williams, would you please turn to page  
 4 25 of your prefiled testimony. Beginning on line 13  
 5 there is a sentence in your prefiled testimony that  
 6 says, "The provision of LNP by LECs is a critical  
 7 component of a competitive local telephone market." Do  
 8 you have that reference?  
 9 **A** I do.  
 10 **Q** Mr. Williams, it is true, isn't it, that you compete  
 11 today without local number portability?  
 12 **A** We compete the best we can in the marketplace without  
 13 number portability.  
 14 **Q** Okay. Well, do you recall testifying in Nebraska on  
 15 the subject of local number portability suspension  
 16 request?  
 17 **A** I do.  
 18 **Q** And in that case didn't you say that we can compete  
 19 today?  
 20 **A** Well, we can compete today, just not on an equal  
 21 footing.  
 22 **Q** Okay. On the subject of equal footing, Mr. Williams,  
 23 isn't it true that wireless companies today don't port  
 24 out to wireline companies where the wireless companies  
 25 are not -- don't have numbers in the ILEC's rate

1 centers?  
 2 **A** The same rules apply for wireless-to-wireline porting  
 3 as from wireline-to-wireless.  
 4 **Q** Yeah. The FCC has a proceeding pending, does it not?  
 5 **A** The FCC has a proceeding pending to see if wireline  
 6 companies can port in numbers from outside of their  
 7 service area even if they don't provide service in the  
 8 outlying rate center.  
 9 **Q** And, Mr. Williams, would you say that getting ready for  
 10 LNP -- I think that you said in your summary today that  
 11 providing local number portability by an ILEC is easier  
 12 than providing DSL service or something to that effect.  
 13 Do you recall that?  
 14 **A** I do.  
 15 **Q** You would agree that getting ready for local number  
 16 portability involves hundreds and hundreds of tasks,  
 17 isn't that true?  
 18 **A** I've completed both the task set for implementation and  
 19 DSL and the task set for implementation and LNP. DSL  
 20 is hard.  
 21 **Q** That wasn't my question. My question was you would  
 22 agree, wouldn't you, that getting ready for local  
 23 number portability involves hundreds and hundreds of  
 24 tasks?  
 25 **A** It does.

1 **Q** Thank you. On page 10 of your prefiled testimony you  
 2 mention the decision of other independent telephone  
 3 companies to implement local number portability. Isn't  
 4 that true at lines 9 through 14, you have a discussion  
 5 about that?  
 6 **A** Yes.  
 7 **Q** You would agree, though, Mr. Williams, wouldn't you,  
 8 that the circumstances of each company should be  
 9 considered individually as opposed to a group?  
 10 **A** Yes, they should.  
 11 **Q** Also on page, 10 line 15 you have a question and answer  
 12 that relates to what other State Commissions are doing.  
 13 Do you have that?  
 14 **A** I do.  
 15 **Q** Isn't it true that State Commissions have not only  
 16 denied suspension petitions but there are State  
 17 Commissions that have granted them?  
 18 **A** That's correct.  
 19 **Q** I'd like to ask you about a statement on page 24 of  
 20 your testimony, lines 7 to 11. You discuss industry  
 21 projections for the potential substitution of  
 22 wireless -- wireline service, excuse me, by wireless.  
 23 Do you have that reference?  
 24 **A** Yes, I do.  
 25 **Q** Wouldn't you agree that the overall porting activity

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1 anticipated for wireless carriers has been somewhat  
 2 lower than anticipated?  
 3 A Yes. It's been lower than industry estimates for  
 4 wireless-to-wireless porting.  
 5 Q Now for wireline -- excuse me.  
 6 (Pause)  
 7 Q Mr. Williams, you testified earlier that you have  
 8 recently testified in Nebraska. I want to ask you  
 9 about a statement. Isn't it true that in Nebraska you  
 10 testified referring to local number portability that,  
 11 "It's not a perfect science. Today it still takes 10,  
 12 20, 30, 40 days to do an intermodal port, in some cases  
 13 it only takes 4 days"?  
 14 Do you recall more or less that testimony?  
 15 A Yeah. There are still some intermodal porting issues  
 16 within local exchange carriers.  
 17 Q For wireline customers that port to your company?  
 18 A Yes.  
 19 Q Using local number portability, isn't it true that to  
 20 get the best price or a better price those customers  
 21 are going to be required to sign contracts as opposed  
 22 to going on a month-to-month arrangement?  
 23 A Any of our customers would assess the total value  
 24 proposition we put in front of them, which include  
 25 different service packages and feature packages and

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1 usage packages as well as different contract term  
 2 lengths.  
 3 Q Well, for customers that have contracts with you.  
 4 A Yes.  
 5 Q And they port to another wireless carrier?  
 6 A Yes.  
 7 Q Or back to a wireline carrier if they're able to port  
 8 back to a wireline carrier?  
 9 A That shouldn't be a question. It's a fact.  
 10 Q My understanding is that you will process the port; is  
 11 that correct, if they have a contract with you?  
 12 A Yes, we will. We're obligated to.  
 13 Q Right. And whatever contract issue -- the customer may  
 14 have to deal with you over a contract issue?  
 15 A If there's a remaining unfulfilled contract term, we  
 16 would deal separately with the customer on that issue  
 17 from the porting process.  
 18 Q Do some of your contracts have early termination fees?  
 19 A Some of them do.  
 20 Q Are you aware whether the Petitioners here have  
 21 termination fees for services they offer subject to  
 22 tariff?  
 23 A I don't, because I don't think it's relevant.  
 24 Q Okay. But you don't -- you're not aware of any  
 25 termination fees?

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1 A I'm not aware of pricing structure other than what I  
 2 heard yesterday for their local rates.  
 3 Q Now if a -- what technology does your company use? Are  
 4 you GSM?  
 5 A Most of our services are CDMA.  
 6 Q Okay.  
 7 A We do have some GSM in our network.  
 8 Q And different wireless providers use different  
 9 technologies. There's not one common standard in the  
 10 United States, is there?  
 11 A Coalescing around two primarily.  
 12 Q Okay. For the purposes of my question, if a customer  
 13 wanted to port to your company from another wireless  
 14 company that doesn't use the same technology, you may  
 15 not -- you may not be able to accept their -- the  
 16 customer may not be able to keep the same phone. Is  
 17 that true?  
 18 A The customer handset equipment would be, again, I'm  
 19 sure part of the value proposition that that customer  
 20 considers when they would choose us.  
 21 Q Okay. And I think the answer is the customer may not  
 22 be able to use the equipment they're bringing from the  
 23 other provider's network. Isn't that true?  
 24 A In some cases that's true.  
 25 Q Are you aware that -- aren't there FCC rules requiring

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1 wireline telephones to be compatible across wireline  
 2 networks?  
 3 A Somewhere in the deep archives I think there was a  
 4 standard set in 1969.  
 5 Q Maybe part 68, something like that?  
 6 A It predates the Telecom Act of '96.  
 7 Q Okay. And are you aware of any rules requiring  
 8 wireless companies to accept wireless competitors'  
 9 phones as an example we just discussed?  
 10 A I know there's some proceedings or processes underway  
 11 to examine that.  
 12 Q Now, Mr. Williams, your company has not always been in  
 13 favor of local number portability, has it?  
 14 A I think the answer to that would be that in the  
 15 environment of a few years ago we had a different  
 16 position on implementation of wireless number  
 17 portability.  
 18 Q And that different position was taken among other  
 19 places at the Federal Communications Commission?  
 20 A Yes.  
 21 Q And that -- subject to check, Mr. Williams, that was in  
 22 the year 2001, wasn't it?  
 23 A Do you have the document I could look at?  
 24 Q Well, I can refer you to a transcript in Nebraska but  
 25 subject to check --

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1 A Subject to check, yes, 2001 sounds -- 2000 or 2001  
 2 sounds appropriate.  
 3 Q I want to phrase my next question carefully.  
 4 A I'll be sure to answer it carefully.  
 5 Q As I understand it -- I'm going to ask you your  
 6 company's position on transport. As I understand it,  
 7 isn't it your company's position that rural ILECs have  
 8 the responsibility to transport local traffic to your  
 9 switch or the point of interconnection at some other  
 10 carrier's tandem where there is no direct connection?  
 11 A With respect to this proceeding, we believe it is every  
 12 carrier's obligation to route traffic appropriately to  
 13 ported numbers.  
 14 Q Well, that didn't exactly answer my question. Let me  
 15 ask it differently. Do you believe that rural ILECs  
 16 have no responsibility to transport local traffic to  
 17 your switch or a point of interconnection at some other  
 18 carrier's tandem if you don't have a direct connection  
 19 with them?  
 20 A Are you talking in general or are you talking about  
 21 traffic to ported numbers?  
 22 Q Ported numbers.  
 23 A In that case, would you restate the question.  
 24 Q Sure. Is it your company's position here that rural  
 25 ILECs do not have the responsibility to transport local

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1 traffic for ported numbers to your switch or a point of  
 2 interconnection at some other carrier's tandem if you  
 3 don't have a direct connection with that ILEC?  
 4 A I believe the local companies, since they are the  
 5 originating carrier of a call to a ported number, do  
 6 have an obligation to route that traffic to the  
 7 designated local routing location within the LATA.  
 8 Q Okay. And so that may be outside of their  
 9 certificated, for the lack of a more precise term,  
 10 local exchange boundary?  
 11 A Yes.  
 12 Q And so for a company -- you're familiar with Kennebec  
 13 Telephone Company?  
 14 A Yes.  
 15 Q And would you accept, subject to check, it's -- would  
 16 you accept, subject to check, that Kennebec is  
 17 approximately 180 miles from Sioux Falls, South Dakota?  
 18 A A little closer to Pierre, isn't it? About 40 miles  
 19 south or something.  
 20 Q Would you expect -- I ought to put Mr. Coit on the  
 21 stand.  
 22 MR. WIECZOREK: I would appreciate  
 23 that.  
 24 MR. DICKENS: Well, we're not going  
 25 to be that generous, even though it is John's

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1 birthday.  
 2 Q And so for a carrier like Kennebec, if I understand  
 3 your position correctly, you would expect them to  
 4 assume the responsibility including the financial  
 5 responsibility to get that call to your switch or the  
 6 Qwest tandem in Sioux Falls?  
 7 A We would expect them to fulfill their obligations.  
 8 Q And --  
 9 A If that obligation included delivering a call  
 10 originated on their network, a local call to a ported  
 11 number, that would mean delivering it to the designated  
 12 routing point within the LATA.  
 13 Q And South Dakota is a one LATA state pretty much, isn't  
 14 it?  
 15 A Yes.  
 16 Q On page 19 of your testimony, lines 8 through 10, I  
 17 think I understand your position to be that those costs  
 18 associated with discharging that responsibility that  
 19 you say they have is not a number portability cost; is  
 20 that correct?  
 21 A That's correct.  
 22 Q Would those costs for delivering ported numbers to you  
 23 in Sioux Falls exist in the absence of number  
 24 portability?  
 25 A Delivering local traffic, the costs of delivering local

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1 traffic exists in the absence of local number  
 2 portability.  
 3 Q The question is in the absence of local number  
 4 portability, would the cost of delivering ported  
 5 numbers exist?  
 6 A Well, in the absence of number portability there would  
 7 be no ported numbers so it doesn't exist.  
 8 Q Now, Mr. Williams, if I understand your testimony  
 9 correctly, you indicate that there isn't just one way  
 10 to route calls. Is that true?  
 11 A I would agree with the testimony we heard yesterday  
 12 that there are multiple ways. I don't know that there  
 13 are thousands of ways but there are multiple ways to  
 14 deliver traffic and route traffic.  
 15 Q Okay. You were just proposing one alternative; isn't  
 16 that correct?  
 17 A That's correct.  
 18 Q And you're familiar, I think, with the James Valley  
 19 settlement that was discussed on the record the other  
 20 day? You would be familiar with that settlement?  
 21 A Yes.  
 22 Q And that alternative is a different alternative than  
 23 you've proposed for the rest of the Petitioners in this  
 24 proceeding?  
 25 A Yes. We negotiated that resolution with James Valley

1 because of specific circumstances associated with our  
2 network and obviously they had specific circumstances  
3 associated with their network. It is different than  
4 the diagrams that have been bandied about the last few  
5 days.

6 Q Okay. It's different than the arrangement you're  
7 proposing for the balance of the Petitioners?

8 A What we suggested for the Petitioners was what we  
9 believed to be the most economically efficient method  
10 to accomplish the routing. But we didn't identify it  
11 as the only method.

12 Q And they're different --

13 A James Valley is different than --

14 Q That's what I --

15 A -- the default.

16 Q Okay. Now for the rest of the Petitioners, I think  
17 you're proposing the use of facilities to get to the  
18 LATA tandem I think is what your Exhibit 6 refers to  
19 that as; is that correct?

20 A Yes. These are currently existing one-way facilities  
21 that are used to deliver wireless traffic to the  
22 telcos.

23 Q And that tandem that you refer to is actually the Qwest  
24 tandem, isn't that synonymous with LATA tandem?

25 A Yes.

1 Q And I think that you have testified previously that  
2 you've established reciprocal interconnection and  
3 transport and termination agreements with most of the  
4 rural ILECs in South Dakota.

5 A Rich could correct me, but I think we've got them with  
6 all the SDTA members.

7 Q All right. And my recollection, and correct me if I'm  
8 wrong, is you're pretty familiar with those agreements,  
9 aren't you?

10 A I am.

11 Q I remember talking to you on the phone about it. All  
12 right. Under the terms of those agreements isn't it  
13 true that your company is responsible for delivering  
14 and picking up traffic at a point of interconnection  
15 within the LEC's calling area?

16 A That's not a completely correct statement.

17 Q At least for some of the LECs?

18 A Well, I'd say at least for some of the traffic.

19 Q Why don't you go ahead and explain for the Commission  
20 what those arrangements consist of in the  
21 Interconnection Agreement.

22 A Sure. The way the Interconnection Agreement we have  
23 with South Dakota telephone companies is modeled is it  
24 allows for two different kinds of traffic exchange.

25 One is what we would call a direct traffic exchange and

1 that's where there's a physical facility connecting our  
2 network with the telco network. And there's different  
3 conditions around that but suffice it to say that we  
4 would pass traffic directly from our network to the  
5 telco network.

6 There is a provision also in the agreement  
7 for what's called an indirect routing mechanism and  
8 that permits under the agreement for a Western Wireless  
9 originated call to be sent to a Qwest tandem and for  
10 Western Wireless to hire Qwest to deliver that call  
11 over their trunk group to the local exchange carrier.  
12 The agreement does not contain the corollary to that,  
13 which would be having the LEC route traffic through the  
14 Qwest tandem to Western Wireless. That corollary was  
15 dropped as part of the negotiations.

16 Q Thank you. And the question I would like to ask you is  
17 that under your proposal where an ILEC like Kennebec  
18 that we talked about earlier would be responsible for  
19 delivering ported traffic to your switch or point -- to  
20 Qwest's tandem or a point of interface with you and  
21 Sioux Falls, that's different than the way the  
22 Interconnection Agreement would handle the call?

23 A The interconnection does not speak in any way to  
24 routing of traffic to ported numbers.

25 Q Thank you. Mr. Williams, this morning when -- I think

1 it's Exhibit 9 is the new cost exhibit.

2 A Yes, sir.

3 Q I want to ask you a question or two about that. Give  
4 me a moment.

5 MR. SMITH: Is this a good time to  
6 take a short break?

7 (A short recess is taken)

8 MR. SMITH: We're back on the  
9 record. Mr. Dickens, you may continue.

10 Q (BY MR. DICKENS) Mr. Williams, we were talking about  
11 transport right before the break, I believe?

12 A Yes.

13 Q And earlier we had had some questions and answers about  
14 your company's position that it is a company like  
15 Kennebec's responsibility to transport the ported calls  
16 to your point of interface, wherever that is -- well,  
17 wherever that is is not correct. We didn't say that.

18 But I think that the question and answers  
19 indicated your company's position that it is the ILEC's  
20 responsibility to deliver calls to your company and in  
21 some cases that may be outside of their exchange,  
22 serving exchange boundary; is that correct?

23 A We believe that the obligations to deliver local calls  
24 are the same for all carriers, and that may include  
25 delivery of calls outside of the local network service

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1 area.  
 2 **Q** Thank you. But you would agree, wouldn't you,  
 3 Mr. Williams, that the FCC recognizes that there is a  
 4 dispute as to which carrier is responsible for  
 5 transport costs when the routing point for the wireless  
 6 carrier switch is located outside the wireline local  
 7 calling area in which the number is rated?  
 8 **A** There is a dispute about who would absorb the transport  
 9 costs. There is no dispute about the obligation to  
 10 route that call. And I think the hearings -- or the  
 11 process will be handled in a different Docket as to who  
 12 ultimately absorbs the transport --  
 13 **Q** Before the Federal Communications Commission?  
 14 **A** Correct.  
 15 **Q** Now I'd like to ask you to -- you handed out a new  
 16 exhibit. I think it was Exhibit 9.  
 17 **A** Revised cost?  
 18 **Q** Yes. And I just want to ask you a couple of questions  
 19 about the exhibit that that modifies, I guess, to some  
 20 extent. That would be 5A and 5B?  
 21 **A** Yes.  
 22 MR. WIECZOREK: For the purpose of  
 23 the record, I believe Exhibit 9 would only modify  
 24 5A because it's only as to those companies that  
 25 there's been cost testimony for so far.

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1 MR. DICKENS: Okay.  
 2 THE WITNESS: 5B.  
 3 MR. WIECZOREK: 5B. Yeah.  
 4 **Q** So the question I was going to ask you at the moment is  
 5 about Exhibit 5A.  
 6 MR. WIECZOREK: I guess I'm going to  
 7 interpose an objection here. If we're going to  
 8 talk about cost specifics on 5A, that -- those  
 9 companies haven't presented yet. They haven't  
 10 presented their cost people yet, and it would be  
 11 appropriate for them to present first and then  
 12 Mr. Williams to respond. As I understand the  
 13 procedure, Mr. Williams will get on the stand to  
 14 respond to those cost experts after those cost  
 15 experts have testified so he can address their  
 16 costs. And that would be the time to cross on 5A.  
 17 MR. DICKENS: Well, this is  
 18 really -- I'm not going to ask him how he  
 19 calculated the costs. This is really a policy  
 20 question.  
 21 MR. WIECZOREK: That's fine.  
 22 MR. DICKENS: It's demonstrated by  
 23 some cost information.  
 24 THE WITNESS: Sure.  
 25 MS. POLLMAN ROGERS: Just a minute.

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1 Could I just be clear here on our procedure then?  
 2 Are we saying that Mr. Williams will be on the  
 3 stand again and available for cross-examination  
 4 with regard to cost questions on the remaining  
 5 companies, or is he only going to be on the stand  
 6 one time? I'm just asking. I don't know.  
 7 MR. WIECZOREK: That's been my  
 8 understanding of how we've talked about it.  
 9 MR. SMITH: I think that is what I  
 10 understand too, exactly. I think the purpose of  
 11 having him today was to sort of follow Mr. Watkins  
 12 as sort of the general policy guy. And if we want  
 13 to get into numbers for which we've had the direct  
 14 case, I don't have a problem with that. We are out  
 15 of order on numbers with respect to companies about  
 16 which we have heard no testimony.  
 17 MR. COIT: That follows my  
 18 recollection too.  
 19 MS. POLLMAN ROGERS: Okay. And I  
 20 didn't mean to interrupt the flow. I just wanted  
 21 to make sure I understood.  
 22 **Q** I promise I won't ask you how you calculated that  
 23 number.  
 24 **A** All right.  
 25 **Q** Under any circumstances. Exhibit 5A, do you have that?

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1 **A** Yes, I do.  
 2 **Q** Okay. If you would look at the column for Faith, and I  
 3 believe that's the City of Faith.  
 4 **A** Yes.  
 5 **Q** And follow the box down to the calculated costs for LNP  
 6 per line per month excluding transport and including  
 7 transport, it shows \$3.95 a line?  
 8 **A** Yes.  
 9 **Q** And I'd like to ask you to refer to Mr. Watkins'  
 10 testimony. Specifically he attached some discovery as  
 11 an exhibit that you had supplied to the Petitioners.  
 12 It's SDTA 2 is the exhibit number.  
 13 **A** Yes.  
 14 **Q** And it's Exhibit 1B to SDTA 2. And what I'm referring  
 15 to specifically is a supplemental discovery response  
 16 that your company supplied showing projected port  
 17 requests for the first five years of porting. Do you  
 18 recall that?  
 19 **A** I do.  
 20 **Q** Would you accept, subject to check, Mr. Williams, that  
 21 the projected ports that you show for the City of Faith  
 22 over five years is zero?  
 23 **A** Could you just point me to the response question on the  
 24 discovery?  
 25 **Q** Yes. Actually I can show it to you. Would that be

1 helpful?

2 A However you can get it in front of me. That would be

3 good.

4 Q Okay. I've got to take Ms. Sisak's pocketbook with me

5 evidently.

6 A There it is. Zero.

7 Q Okay. Thank you. Now I'd like to refer you to Exhibit

8 5B, and this may be impacted by your Exhibit 9 that we

9 admitted this morning.

10 A Okay.

11 Q I'm sorry for the delay. Here it is. And I'd like to

12 refer you to the column for Brookings, if you see that.

13 A Yes.

14 Q And I think that this is unchanged by the revisions

15 that we admitted this morning as Exhibit 9, but it

16 shows transport-related costs of \$118 as a monthly

17 recurring cost. Do you see that on 5B?

18 A That I do.

19 Q Now does that remain \$118 on Exhibit 9?

20 A It remains \$118 for our revised numbers based on the

21 estimated ports made by the Petitioners, and then it's

22 adjusted for the port volume estimated by Western

23 Wireless.

24 Q Okay. So \$118 is still a good number for --

25 A Recurring transport related to routing calls to ported

1 numbers.

2 Q Okay. What is that \$118 price based on? I know you

3 mentioned projected ports, but what I want to ask you

4 is did that come out of a Qwest tariff?

5 A Yes. It's based on estimated traffic volume times the

6 rate that Qwest offers as a transit service provider

7 for those that have interconnection arrangements with

8 Qwest.

9 Q And is that a minute-based rate?

10 A It is.

11 Q And how many minutes roughly would \$118 a month

12 represent?

13 A Well, I can tell you how the formula was -- how the

14 formula factors out.

15 Q Okay.

16 A The way the formula is derived is you take the number

17 of ported outlines times the assumption that those

18 lines will receive six calls a day, each line will

19 receive six calls a day --

20 Q Six calls a day per line?

21 A Per line from the local calling area. And then that

22 number is multiplied by the .003123 per minute rate

23 that Qwest charges for toll -- they call it toll

24 transit in the state. And then that's multiplied by 30

25 days to get a monthly estimate.

1 Q So the six calls per day, is there a minute

2 associated --

3 A I'm sorry. There also is a factor. I think I assumed

4 3.5 minutes per call, which is above -- appears to be

5 above the average for not only Western Wireless's

6 incoming calls but also the rural telco calls.

7 Q Okay. Mr. Williams, if your company were

8 responsible -- I know that your position is you're not

9 responsible for transport costs. But if your company

10 were responsible for transport costs as we have

11 discussed it today, would Western Wireless still want

12 local number portability from all the Petitioners in

13 this case?

14 A If we were responsible for the transport costs?

15 Q Yes.

16 A I think we would want local number portability, yes.

17 Q Okay. Thank you. Let's see. I wanted to ask you

18 about the testimony in your prefiled exhibit on page

19 22, where you mention the notice of apparent liability

20 that was issued by the enforcement bureau for the FCC?

21 A Yes.

22 Q And that's at lines -- see if I've got this right. I

23 think the quote that appears in your testimony is, "The

24 FCC has made it clear that a carrier is still obligated

25 to route calls to ported numbers." I think you're

1 referring to the notice of apparent liability.

2 Is that a fair characterization of your

3 testimony?

4 A Yes. There's a citation there from the actual notice.

5 Q Okay. And isn't it true, Mr. Williams, that the

6 document that you cite, that is the notice of apparent

7 liability, does not establish any kind of final

8 liability for Century Telephone?

9 A It's a notice of a forfeiture for failure to route

10 traffic properly, and I assume that there's follow-on

11 process.

12 Q It's a notice of apparent liability, isn't it?

13 A That's what it says.

14 Q And do you understand the way that apparent liability

15 notices and FCC forfeiture proceedings operate?

16 A I do not.

17 Q Okay. Mr. Williams, you were in the room yesterday

18 when Commissioner Burg was asking Mr. Houdek some

19 questions?

20 A Yes.

21 Q Do you remember when Commissioner Burg asked Mr. Houdek

22 about the possibility of having wireless carriers pay

23 for those transport costs that we discussed earlier

24 generally?

25 A It sounds like a question that may have been asked,

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1 yes.  
 2 **Q** And you were sitting over there, I think, weren't you,  
 3 over there in the corner?  
 4 **A** I was.  
 5 **Q** Did you say during -- when Mr. Houdek was having that  
 6 exchange with Commissioner Burg -- did you mention to  
 7 someone, Watch phantom traffic go up, during that  
 8 exchange? Does that sound familiar to you?  
 9 **A** Not at all.  
 10 **Q** Okay.  
 11 **A** In fact, if you want to talk about phantom traffic, I  
 12 think --  
 13 **Q** My question was did you say that?  
 14 **A** I did not.  
 15 **Q** Okay. Thank you.  
 16 MR. DICKENS: Those are all the  
 17 questions I have.  
 18 MR. SMITH: Mr. Coit.  
 19 MR. COIT: Yes. Thank you.  
 20 CROSS-EXAMINATION  
 21 BY MR. COIT:  
 22 **Q** First, Mr. Williams, I would like to -- I've got a  
 23 question regarding Exhibit 11, which is the survey of  
 24 rural consumers.  
 25 **A** Yes.

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1 **Q** The survey that was conducted -- it says it's a survey  
 2 of rural consumers. How was rural defined for the  
 3 purposes of this survey?  
 4 **A** Within Western Wireless's serving area, but outside of  
 5 an MSA.  
 6 **Q** Okay. Outside of any of the top 100 MSA? Is that the  
 7 answer?  
 8 **A** That's correct.  
 9 **Q** I'm going to show you now an exhibit and I'll circulate  
 10 copies.  
 11 (Exhibit SDTA 3 is marked for identification)  
 12 MR. COIT: It's been marked SDTA  
 13 Exhibit No. 3.  
 14 CHAIRMAN SAHR: Can we go off the  
 15 record?  
 16 (Discussion off the record)  
 17 **Q** For the purposes of the record and for providing you a  
 18 little assistance, Mr. Williams, what you have in front  
 19 of you is a listing of the SDTA member companies. I  
 20 would say I think it needs one correction, but it's not  
 21 all that important for the purposes of the questions  
 22 I'm going to ask. I don't believe Prairie Wave  
 23 Community Telephone is on that, and that would have to  
 24 be added as one of the SDTA members.  
 25 Mr. Williams, you participated in

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1 negotiations with respect to reciprocal traffic  
 2 exchange and interconnection with SDTA and many of  
 3 those companies; is that correct?  
 4 **A** That's correct.  
 5 **Q** If I could ask you to review that, there's  
 6 agreements -- I believe you would agree that agreements  
 7 have been reached with most of those companies. I  
 8 think there's a couple, though, that the agreements  
 9 have not yet been signed on. Could you for the record  
 10 identify which companies those might be?  
 11 **A** I think we have a couple remaining wrinkles with  
 12 respect to Roberts County, RC, and Splitrock  
 13 Properties. I don't think the McCook has been signed  
 14 yet, only because of an administrative error.  
 15 **Q** Okay. So looking at that list then all of the other  
 16 companies on that list to your recollection and your  
 17 understanding have executed a reciprocal transport and  
 18 termination and Interconnection Agreement with Western  
 19 Wireless?  
 20 **A** Yes. They all look familiar.  
 21 **Q** And at least most of those agreements have been filed  
 22 with the Commission for approval; is that correct?  
 23 **A** It's my understanding.  
 24 MR. COIT: At this time I would ask,  
 25 just as we did in the ITC cases, I would ask the

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1 Commission to take judicial notice of the filings  
 2 that have been made with respect to those  
 3 agreements.  
 4 MR. SMITH: Is there an objection?  
 5 MR. WIECZOREK: I have no objection.  
 6 **Q** With respect to the terms of those agreements and just  
 7 the agreements in general, would you agree they are  
 8 identical in terms and conditions and the only  
 9 differences relate to rates and local calling scope and  
 10 point of interconnect information that would be  
 11 included in Appendix B to those agreements?  
 12 **A** Yes.  
 13 **Q** At this time I would like to go back to the Interstate  
 14 agreement that was judicially noticed earlier, and I'm  
 15 going to hand a copy of that out. I'm not sure that I  
 16 have enough copies.  
 17 MR. WIECZOREK: Could I ask for the  
 18 purposes of the record it get marked so we can  
 19 refer to it as an exhibit, when we have the record  
 20 we have an exhibit with it.  
 21 MR. COIT: If we could mark that as  
 22 SDTA Exhibit 4. There's also a cover letter on the  
 23 top of the agreement indicating about the date that  
 24 it was filed.  
 25 (Exhibit SDTA 4 is marked for identification)



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1 **Q** Mr. Williams, with respect to this agreement executed  
 2 between ITC and Western Wireless, I'd like to refer  
 3 your attention to specifically Section 3.1 of the  
 4 agreement on page 5. And if you could take just a  
 5 moment to review Sections 3.1.1 and 3.1.2.  
 6 (Witness examines document)  
 7 **A** Okay.  
 8 **Q** Thank you. Looking specifically at Section 3.1.2 and  
 9 actually 3.1.3 if you want to take a look at that.  
 10 **A** Yes.  
 11 **Q** Would you agree that the provisions in each of those  
 12 sections do address the establishment of points of  
 13 interconnection between wireless carriers and landline  
 14 local exchange companies?  
 15 **A** Yes, I do.  
 16 **Q** And would you agree that they also speak to the  
 17 delivery of local traffic to those points of  
 18 interconnection?  
 19 **A** The delivery of a specific form of local traffic to an  
 20 NPA NXX assigned to Western Wireless.  
 21 **Q** But it references specifically local traffic; correct?  
 22 **A** Local traffic destined to an NPA NXX assigned to  
 23 Western Wireless.  
 24 **Q** And so would you agree that those provisions also speak  
 25 to the -- in speaking to the establishment of points of

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1 interconnection they also address NXX assignment?  
 2 **A** They refer to CMRS provider NPA NXX assignment within  
 3 the rate center.  
 4 **Q** Within the rate center; correct?  
 5 **A** NPA NXX in that rate center.  
 6 **Q** Now just for the purposes of, I guess, bringing  
 7 attention to particular provisions that I think are  
 8 relevant to the issues that we've been discussing on  
 9 points of interconnection and transport  
 10 responsibilities, could you read in Section 3.1.2 the  
 11 first and second sentence, and that would be the  
 12 Section 3.1.2. Read that for the record.  
 13 **A** "Type 2-B interconnection facilities which provide a  
 14 trunk side connection between a CMRS provider and a  
 15 telephone company end office or tandem switch that is  
 16 capable of trunk-to-trunk switching, as specified in  
 17 Appendix B, the CMRS provider's POI must be located  
 18 within the telephone company's exchange boundary of  
 19 that telephone company end office or tandem switch.  
 20 Type 2-A facilities provide the capability for the CMRS  
 21 provider with an NPA NXX in that rate center to  
 22 exchange traffic between the CMRS provider subscribers  
 23 and telephone company subscribers served only by that  
 24 telephone company end office."  
 25 **Q** Okay. I'd like to ask you also to read Section

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1 3.1.2.2.  
 2 **A** "Only local traffic originating from the telephone  
 3 company end-users in the LEC local calling area will be  
 4 delivered by the local telephone company to the CMRS  
 5 provider POI."  
 6 **Q** In Section 3.1.3 which speaks to type 2-B  
 7 interconnections could you read the first and second  
 8 sentences only, please.  
 9 **A** "Facilities which provide a trunk side connection  
 10 between the CMRS provider and the telephone company end  
 11 office, the CMRS provider's POI must be located within  
 12 the telephone company's end office exchange boundary of  
 13 that telephone company end office," and it goes on to  
 14 explain specifically what traffic is associated with  
 15 that.  
 16 **Q** Okay. And I would also like you to take a quick moment  
 17 to review sections 4.2.1 and 4.2.2, please.  
 18 (Witness examines document)  
 19 **A** Okay.  
 20 **Q** And could you for the record again read 4.2.1, please.  
 21 **A** "The telephone company with which CMRS provider has  
 22 directly connected shall be responsible for the  
 23 delivery of traffic from its end-users in the local  
 24 calling area connected to its network to the  
 25 appropriate point of interconnection within the

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1 exchange boundary of the end office in which the tandem  
 2 providing type 2-B interconnection is located or within  
 3 the exchange boundary of the end office providing type  
 4 1 and/or type 2-B interconnection on the CMRS  
 5 provider's network for the transport and termination of  
 6 such traffic by the CMRS provider to its end-user."  
 7 **Q** And finally could you just read the first sentence of  
 8 Section 4.2.2.  
 9 **A** "Telephone company agrees that its landline customers  
 10 will dial CMRS provider NPA NXXs on a local basis, so  
 11 long as the CMRS provider NPA NXX has been assigned by  
 12 the North American Numbering Plan Administrator to an  
 13 end office rate center in which a POI is physically  
 14 located, and provided such local access is consistent  
 15 with the capabilities and use of the direct  
 16 interconnection established as described in Exhibit 1  
 17 to this agreement."  
 18 Who wrote these sentences?  
 19 **Q** You indicated earlier that you were involved directly  
 20 in these negotiations of these agreements; correct?  
 21 **A** Correct.  
 22 **Q** I'd like to talk a little bit about the statement that  
 23 you made regarding impacts on customers who are outside  
 24 the rural LEC service areas. And I believe that was in  
 25 relation to the porting between wireless subscribers,

1 porting their numbers to different wireless companies.

2 Now in a situation where you would receive  
3 landline-to-wireless traffic over a direct connect,  
4 would I be correct in saying that -- and let's say it's  
5 destined to a number that was ported from Western  
6 Wireless to another wireless carrier. Would I be  
7 correct in saying that there is action that you can  
8 take to ensure that the traffic is appropriately routed  
9 to that other wireless carrier?

10 A There is action we do take on behalf of the local  
11 exchange carrier that has misrouted that call. The  
12 action includes a query, expense and dip that we  
13 provide and the action includes transport and  
14 termination to the proper terminating carrier.

15 Q So you as a wireless carrier can take the call and make  
16 sure that it's routed to the wireless carrier that the  
17 customer has ported their number to?

18 A In order to provide and to facilitate call completion,  
19 we are trying to provide default query service whenever  
20 possible so that calls continue to complete even though  
21 they are misrouted by the local exchange carrier.

22 Q So if there is an obstacle there, you have a way of  
23 removing the obstacle; correct? Yes or no?

24 A We have a way to provide an emergency service to do  
25 that, that's correct.

1 Q Now didn't you talk a little bit about the James Valley  
2 settlement? Didn't you agree in the James Valley  
3 settlement to conduct LNP queries at least on an  
4 interim basis?

5 A On an interim basis.

6 MR. COIT: That's all I have.

7 MR. SMITH: Mr. Koenecke?

8 MR. KOENECKE: Nothing. Thank you.

9 MR. SMITH: Ms. Wiest.

10 MS. WIEST: Thank you.

11 CROSS-EXAMINATION

12 BY MS. WIEST:

13 Q Mr. Williams, could you go to page 6 of your testimony?  
14 Lines 5 to 6 you state that you sent a BFR to everyone  
15 except three of the Petitioners; is that correct?

16 A That's correct.

17 Q And why didn't you send a BFR to those?

18 A As we were looking at the opportunity to deploy  
19 intermodal portability we -- because we do cover a  
20 broad area, there are many telephone companies within  
21 that area. We decided to take a phased approach and  
22 the first phase that we sent bona fide requests to were  
23 those that from a marketing perspective were more  
24 important opportunities for us.

25 Q Faith was more important opportunity than these

1 exchanges?

2 A I'm not certain about the details of Faith.

3 Q I was just curious. And then you stated that on page  
4 15, line 12, and there you're talking about the  
5 uncertainty and what the FCC will do with respect to  
6 future -- in the future regarding compensation matters.

7 In that statement are you only referencing  
8 transport questions or not?

9 A Well, I think as it's relevant to this proceeding I was  
10 focusing on the issue of who would pay for transport  
11 for numbers outside of a -- routing numbers outside of  
12 a local calling area.

13 Q With respect to LNP you don't know of any other issues  
14 regarding compensation matters?

15 A I do not.

16 Q FCC will decide? Okay. And it is your understanding  
17 the FCC will decide that at some time in the future;  
18 correct?

19 A Yes.

20 Q Is it Western Wireless's position that this Commission  
21 can decide that?

22 A No.

23 Q Could you go to page 17, please. On line 11 where you  
24 state that, "Some Petitioners have included fees for  
25 SOA nonrecurring set-up charge or nonrecurring SOA when

1 estimated port volumes provide no justification for  
2 automated SOA."

3 My question is if the porting interval is  
4 shortened, would that require the use of an automated  
5 SOA even with low port volumes?

6 A No, that's not the case. In fact, today wireless  
7 porting intervals today are set at approximately two  
8 and a half hours. We have, I think, two or three rural  
9 wireless carriers that we're dealing with. They are  
10 meeting two and a half hour intervals and they are  
11 using a fax process and help desk method to accomplish  
12 the porting.

13 Q So even if the porting interval was two and a half  
14 hours, a company with low volumes still wouldn't need  
15 an automated SOA. Is that your --

16 A I would agree, yes.

17 Q Okay. And then on line 20 you state that, "SOA monthly  
18 charge estimates that are based on a vendor quote for  
19 an automated interface with a high minimum monthly  
20 charge," and you're providing examples of what you  
21 state are overstated costs; is that correct?

22 A I'm sorry. I think I'm at the wrong location. What  
23 page?

24 Q Page 17, line 20.

25 A I was at the wrong page.

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1 **Q** Sorry. Beginning on line 20. Do you see that where  
 2 you're talking about SOA monthly charges?  
 3 **A** Yes.  
 4 **Q** And I'm just trying to clarify. Are you saying the  
 5 minimum monthly charge is high for an automated  
 6 interface or just that the minimum monthly charge is  
 7 high because the company is using an automated  
 8 interface which you claim they don't need?  
 9 **A** Well, with an automated and we talk automated interface  
 10 there's really two levels of automated interface  
 11 available.  
 12 **Q** Okay.  
 13 **A** What most of the Petitioners have, I think, recommended  
 14 is an interface that is a web-based interface or  
 15 dial-up base where you dial up into their service. You  
 16 pay for that a \$1,000 fee for an access ID and a \$400 a  
 17 month recurring port charge to access that. And that  
 18 gives you a look into their system and you can transact  
 19 things via computer.  
 20 There's a more sophisticated interface which  
 21 is more expensive than that. I don't think any of the  
 22 Petitioners have recommended that kind of an automated  
 23 interface.  
 24 **Q** Okay. Thank you. And then still on page 17, line 22  
 25 where you state, "Other recurring costs are overstated

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1 based on Petitioner's own estimate of port volumes,"  
 2 could you explain that in more detail?  
 3 **A** Other Petitioner costs based on port volumes  
 4 overstated, they have included costs for the port  
 5 processing, taking the transaction of a port request  
 6 and processing it through to completion, that are  
 7 overstated both based on my experience and the fact  
 8 that at the time I wrote this many of the Petitioners  
 9 had claimed that they would be subjected to zero ports.  
 10 And it's in essence a variable cost that if you aren't  
 11 porting anything, you shouldn't be incurring that cost.  
 12 **Q** And then just going on to page 18, line 1, can you  
 13 explain in more detail why the business procedure and  
 14 porting process costs appear to be overstated and  
 15 redundant?  
 16 **A** Each company forecasts -- not each company. Each group  
 17 of companies represented by cost witness stated these a  
 18 little bit differently, but the business procedure  
 19 costs, and that would be the development of processes  
 20 necessary to perform number portability, there was  
 21 quite a bit of variance between the Petitioners, and  
 22 yet there isn't in the end much variance in the  
 23 process.  
 24 And so what I did was normalize the numbers  
 25 for what seemed to be an average, roughly an average

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1 for all of the companies. What I didn't do was take a  
 2 look at the opportunity for these companies to use,  
 3 either through their association or some other informal  
 4 organization, the ability to develop one set of  
 5 processes one time that could apply to many or most of  
 6 their operations, that that wasn't part of my study,  
 7 but that would be an opportunity for the reduced costs.  
 8 **Q** And then on line 3 you state that, "The marketing  
 9 information of flyer costs are not justified on a  
 10 recurring basis." Why is that?  
 11 **A** Well, what some of the Petitioners have proposed is an  
 12 informational communique of some sort that would inform  
 13 their customers about the advent of number portability  
 14 in their systems and visionably the advent of a number  
 15 portability surcharge on their bills. And we do  
 16 endorse the necessity for that kind of a communication  
 17 when LNP is implemented. We don't believe that that  
 18 kind of a communication, particularly as it relates to  
 19 the LNP surcharge, makes sense as an isolated  
 20 communique on an annual recurring basis.  
 21 I think if you're going to communicate with  
 22 your customers about charges on their phone bill, for  
 23 example, that first of all you do it in concert with  
 24 all the other charges that would appear on your phone  
 25 bill -- if it was 911 or any of the other, you know --

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1 any of the other line-item charges that appear on a  
 2 phone bill it would make sense to do that as an  
 3 integrated unified basis. That is probably an activity  
 4 that if it is happening today that LNP would just be an  
 5 incremental citation within that same communique and  
 6 would not require an additional independent marketing  
 7 distribution.  
 8 **Q** And you mentioned just recurring basis. Are the  
 9 nonrecurring costs justified?  
 10 **A** I think there are costs justified for the nonrecurring  
 11 piece. There is again a variance in terms of how the  
 12 Petitioners have approached -- how those costs are  
 13 going to be incurred, and I think -- maybe we'll hear  
 14 testimony today that would represent different costs  
 15 associated with that than we might have heard so far in  
 16 this proceeding.  
 17 **Q** Okay. Still on page 18 on line 6, going back to some  
 18 of the SOA costs, you talk about overstated SOA costs  
 19 and then mention the NPAC help desk. Is it your  
 20 opinion all the Petitioners would be able to use that?  
 21 **A** No. I think they're -- well, when you look at Western  
 22 Wireless's port projections, there are a few  
 23 Petitioners -- a handful of Petitioners that have  
 24 monthly port volumes, I think, that would justify, you  
 25 know, the more sophisticated SOA interface, the non

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1 help desk method. But for the majority of the  
 2 Petitioners and given even Western Wireless's port  
 3 volumes, I would think that the help desk method would  
 4 be appropriate.  
 5 **Q** What's your cutoff?  
 6 **A** Close -- I would say 15 to 20 ports per month might be  
 7 appropriate. When you think about it, even 20 ports  
 8 per month is just one per business day.  
 9 **Q** And does Western Wireless have an automated interface?  
 10 **A** Well, actually we've used all three methods. You know,  
 11 we've implemented our capability in stages.  
 12 Initially -- and we still do work today using the help  
 13 desk method on some occasions. We use the -- the  
 14 dial-up \$400 a month recurring method on a semi-regular  
 15 basis today, and then we are in the process of  
 16 implementing a more integrated system that fits our OSS  
 17 and that is the direct computer-to-computer connection  
 18 that doesn't use a human intervention. So we use all  
 19 three layers of interface with them.  
 20 **Q** And then in your cost analysis did Western Wireless,  
 21 did you use carriers authorized to serve as opposed to  
 22 carriers actually serving?  
 23 **A** Well, our methodology was different.  
 24 **Q** Okay.  
 25 **A** In a significant way. What you have seen are costs

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1 based on points of interconnection with each carrier in  
 2 the area. What we did was -- because our transport  
 3 costs aren't dependant upon the number of carriers,  
 4 they're dependant upon the volume of traffic.  
 5 And so what we did was forecast expected  
 6 ports, and we used that to derive an estimated traffic  
 7 volume and so there is no specific number of carriers.  
 8 We have just assumed on average over a -- over a  
 9 five-year period that there would be a 15 percent  
 10 migration from landline to wireless.  
 11 **Q** Okay. And so based on that analysis you don't have to  
 12 come up with any type of number of wireless carriers  
 13 that are serving?  
 14 **A** That's correct. It's traffic volume direct.  
 15 **Q** And then if you go to page 22 where you reference FCC's  
 16 Century Tel NAL, I believe with respect to the answers  
 17 that you gave to Mr. Coit it's not necessarily true  
 18 that the LEC would have to become LNP to resolve those  
 19 routing problems. Is that correct or not?  
 20 **A** Well, that is correct, but what the LEC needs to do is  
 21 if they are unwilling or incapable of supporting number  
 22 portability, they need to contract with a carrier that  
 23 will provide default query service. And in this state  
 24 the only carrier that I'm aware of that is not only  
 25 obligated to do that but offers it as a service is

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1 Qwest.  
 2 **Q** And so that would involve or entail that those calls  
 3 would be transported to the Qwest serving tandem? Is  
 4 that correct?  
 5 **A** That's correct. And Qwest does have in its tariffs  
 6 both a default query, and then they also have a  
 7 subscription query rate, which is lower than the  
 8 default rate.  
 9 **Q** I believe you stated in your summary that the  
 10 Petitioners have not asked for a suspension from  
 11 transporting other carriers' porting numbers. Is that  
 12 correct or did I have that wrong?  
 13 **A** Let me see if I can clarify this. They haven't  
 14 requested a suspension from their routing obligations.  
 15 And an example would be if Western Wireless's number  
 16 was ported to Verizon Wireless.  
 17 **Q** Right.  
 18 **A** The originating carrier still has an obligation to  
 19 route that traffic to the terminating carrier, and they  
 20 have, as I understand it -- as I have read it, they  
 21 haven't asked for a suspension of that routing  
 22 obligation.  
 23 **Q** Is it your understanding that they could ask for  
 24 suspension of that routing obligation?  
 25 **A** No.

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1 MS. WIEST: That's all I have.  
 2 Thanks.  
 3 MR. SMITH: I might go to  
 4 Commissioner questions anyway. What I wanted to  
 5 ask was a clarifying. Just to make sure we're all  
 6 on the same track here in terms of the issue Tal  
 7 brought up earlier, had you completed -- I mean,  
 8 did your cross-examination include all of the  
 9 subjects that you were intending to cross-examine  
 10 Mr. Williams about, such as the company-specific  
 11 numbers dealing with the companies that we've heard  
 12 from so far?  
 13 MR. DICKENS: If today is our only  
 14 opportunity to ask Mr. Williams questions about  
 15 companies who were subject to cost testimony this  
 16 week, I would probably have five or 10 minutes of  
 17 questions for Mr. Williams.  
 18 MR. SMITH: I was worried that -- I  
 19 don't know, Tal. Was that your understanding, that  
 20 today we would deal with the cost testimony  
 21 relating to companies we've already heard about?  
 22 MR. WIECZOREK: That's my  
 23 understanding of what we've planned.  
 24 MR. SMITH: I just didn't want to  
 25 have a situation develop where you guys, you know,

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1 lost that opportunity if you were intending to do  
2 so.  
3 MR. DICKENS: We've got a very small  
4 amount --  
5 MR. SMITH: Before the Commission  
6 questions would you please -- I'm going to treat  
7 this as a continuation of your original  
8 cross-examination.  
9 MR. WIECZOREK: Fine.  
10 MR. SMITH: Do you need time or are  
11 you ready to go?

12 MR. DICKENS: I think I'm ready.

13 CROSS-EXAMINATION

14 BY MR. DICKENS:

15 Q These are questions about Exhibit 9 that came in this  
16 morning. On the first page of that exhibit,  
17 Mr. Williams, which are cost -- it's a cost comparison  
18 exhibit that relates to the City of Brookings.  
19 A Correct.  
20 Q Under the second heading on the left-hand side of the  
21 page for the category labeled impact-related costs --  
22 A Yes.  
23 Q -- under service order administration in the third  
24 column entitled Petitioner revised estimates under  
25 nonrecurring, if you follow that down to the service or

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1 administration line item, there's nonrecurring I guess  
2 monthly charge there of \$2,000 that Mr. DeWitte  
3 identified; is that correct?  
4 A That's correct.  
5 Q Okay. And if you look over to your revised estimates,  
6 which is the last column on the page --  
7 A Yes.  
8 Q -- under nonrecurring, it shows \$1,000.  
9 A That's right.  
10 Q Is that a change? Should that be highlighted?  
11 A That should be highlighted in yellow. It is different  
12 than the Petitioner.  
13 Q Okay. Why did you change that?  
14 A Well, as I just explained, Western has forecasted a  
15 much higher port volume than the Petitioners for  
16 Brookings. We think Brookings is one of those  
17 companies that at Western's forecasted port volume that  
18 would and should take advantage of an automated SOA  
19 interface. So the \$1,000 represents the start-up costs  
20 I referred to which is the access ID fee, and then the  
21 \$400 is the monthly recurring port charge.  
22 Q Okay. Would you turn to the next page for Interstate  
23 Telephone Cooperative.  
24 MR. WIECZOREK: Would you like him  
25 to highlight it so it's clear on the original at

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1 least?  
2 MR. DICKENS: If it should, yes.  
3 (Witness highlights document)  
4 Q Is that how we got the yellow on here is a highlighter?  
5 A There's a little guy in the machine that does that.  
6 Q Okay. Are you with me now?  
7 A Yes. I'm sorry.  
8 Q Under the technical administrative costs, and I believe  
9 the line that I'm looking at is marketing/informational  
10 flyer?  
11 A Yes.  
12 Q I'm following that across to the column that says --  
13 well, let me try to do this the right way. I'm  
14 following it across to the third column that is  
15 entitled Petitioner revised estimates 3A.  
16 A Yes.  
17 Q And that shows \$15,000.  
18 A Yes.  
19 Q And if we continue to -- that's \$15,000 for  
20 nonrecurring; right?  
21 A That's correct.  
22 Q Okay. If we follow that across to the last column on  
23 the page it says Western revised estimates?  
24 A Right.  
25 Q You've got \$15,000 there, and it's highlighted. Should

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1 that be highlighted?  
2 A No, it should not. Because that was the last --  
3 equivalent to the last estimate provided by the  
4 Petitioners.  
5 Q Okay. And then for monthly recurring that's also  
6 highlighted and it appears as though you have  
7 eliminated any monthly recurring charge --  
8 A On the flyer?  
9 Q Yes.  
10 A That's correct.  
11 Q Okay. I think I've just got one more question on this.  
12 Let me check with Mr. DeWitte, if I could for just a  
13 second.

14 (Pause)

15 MR. DICKENS: Those are all the  
16 questions on the numbers. Thank you for the  
17 opportunity.

18 MR. SMITH: Commissioners.

19 CHAIRMAN SAHR: Good morning.

20 THE WITNESS: Good morning.

21 CHAIRMAN SAHR: Mr. Williams, I have  
22 a few questions. The survey that's marked Western  
23 Wireless Exhibit 11 that was admitted this morning.

24 THE WITNESS: Yes.

25 CHAIRMAN SAHR: I'm looking at the

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1 survey overview and it says 1,000 on-line surveys.  
2 Do you know if this -- I mean, was this a  
3 scientific survey done with representative samples  
4 or was it just something people could voluntarily  
5 go on line or do you know anything about the  
6 methodology behind the survey?

7 THE WITNESS: No. I think this  
8 implies the responses were provided on line but the  
9 survey was scientific in terms of its approach to  
10 validity level of plus or minus 4 percent.

11 CHAIRMAN SAHR: Thank you. And then  
12 I'm working on trying to flush out some of the  
13 issues relating to the question of whether or not  
14 there's a significant adverse economic impact on  
15 users. And you talked a little bit about this this  
16 morning. You mentioned that while there may be  
17 costs borne by the consumers, there may be some  
18 advantages gained to consumers, I assume through  
19 enhanced competition.

20 Would you discuss that a little more fully?

21 THE WITNESS: Certainly. Well, I  
22 mean, I think the biggest manifestation of the  
23 implementation of LNP is additional consumer  
24 choice. And obviously choices are unique to each  
25 individual, but this offers a choice that's of

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1 value to at least some individuals.

2 The other thing that happens in a marketplace  
3 that's introduced to competition like this, I would  
4 suggest that market prices tend to go down and  
5 service levels tend to go up. And that occurs more  
6 broadly across the marketplace for all consumers.

7 The other thing that happens, even for those  
8 consumers that aren't going to take advantage of  
9 number portability, it increases their own personal  
10 bargaining position with respect to the provider of  
11 telecommunications services. If you are a current  
12 customer of a service provider and you have a  
13 choice and you're not inhibited in your ability to  
14 make that choice, if you have a billing issue or a  
15 service issue, you know, something is wrong about  
16 your value proposition, you have more leverage to  
17 negotiate resolution of that than if there was not  
18 another choice available to you.

19 And I think those impacts, though qualitative  
20 in nature, are real, and real for every customer  
21 that gets introduced into a competitive  
22 environment.

23 CHAIRMAN SAHR: And you may have  
24 anticipated my follow-up question. I think you've  
25 stated some accurate economic principles. Is there

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1 any statistical evidence that you can present to  
2 support that in this particular situation? Has  
3 Western Wireless done any analysis of potential  
4 benefits of LNP that would compare that to  
5 potential costs either borne by the consumers or  
6 the companies?

7 THE WITNESS: The record on the  
8 impact of competition and LNP as a component of  
9 competition was made really at the federal level in  
10 the course of Congress's proceedings up to the  
11 Telecommunications Act and then the subsequent  
12 proceedings in terms of the implementation of  
13 number portability. I don't have any additional  
14 studies to offer to that.

15 The conclusion of the FCC was that this was in  
16 the public interest whether people took advantage  
17 of porting or not.

18 CHAIRMAN SAHR: And this may get a  
19 little bit beyond your scope of expertise but it  
20 may not so please let me know if it does. And this  
21 is going to be a little bit rhetorical in nature.  
22 But, you know, from my discussions with the  
23 consumers I have heard of a lot of interest across  
24 the state with business people who are interested  
25 in porting their wireless to wireless and some

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1 wireline to wireless.

2 On the consumer level I've generally heard,  
3 especially in the smaller towns and more rural  
4 area, a higher degree of interest in keeping the  
5 landline and adding the wireless or maybe they've  
6 already added the wireless phone as a second line  
7 or we can argue which one's primary or secondary,  
8 but in any event going more that route.

9 Is there any implications of that on the  
10 question of end-user costs and the benefits of this  
11 if people are, in fact, more likely to be adding  
12 this as a second line, the typical consumer, as  
13 opposed to actually porting their landline number?

14 THE WITNESS: Well, I think that's  
15 an excellent question and my answer is going to be  
16 along the lines of each individual consumer is  
17 interpreting it differently, and let me just kind  
18 of describe that.

19 Many of us have wireless phones that are  
20 complimentary to our landline service and we use  
21 them at different levels for different reasons.  
22 You know, some people use them because of local  
23 calling area issues. Others use them because of  
24 mobility issues. There's lots of different  
25 reasons.

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1 The experience of people who have never had  
 2 wireless phones before is often, you know, I'm not  
 3 sure I want to jump in with both feet from the  
 4 get-go, although the rural youth market  
 5 specifically is much more prone to do that. So  
 6 instead of jumping in with both feet and cutting  
 7 the cord from the get-go, consumers add wireless  
 8 service as a complimentary service. Once they  
 9 become familiar and confident and comfortable with  
 10 it, many consumers want to make that their primary  
 11 service.

12 And with some of these consumers that is an  
 13 issue because their identity may be invested in  
 14 their landline phone number, their primary  
 15 identity. And so what you've got is a condition  
 16 where you've got an identity invested in a landline  
 17 phone, which you want to preserve because there's  
 18 value in that for you, and you've got a preference  
 19 to use wireless services as your sole  
 20 communications device. Right now those people have  
 21 to pay for dual services because their identity is  
 22 invested in one and their usage preferences are  
 23 invested in another and there's no easy way to get  
 24 out of that situation. Number portability provides  
 25 that class of consumers a chance to consolidate

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1 their services.

2 CHAIRMAN SAHR: One of the  
 3 considerations that we are charged with making is  
 4 whether or not this is consistent with public  
 5 interest, convenience, and necessity. And the -- I  
 6 think one of the more challenging parts of the LNP  
 7 issue is typically we tend to have costs borne by  
 8 cost-causers, meaning I am a business person who  
 9 wants to switch from wireless company to wireless  
 10 company, and either I as the consumer who wants  
 11 this or the company who receives the benefit of  
 12 getting me as a new customer would typically be the  
 13 one generally, with the way we run economics in  
 14 this country, would generally be the people who  
 15 would be expected to bear that, although certainly  
 16 there's plenty of socialized cost and all of that.  
 17 We all know that.

18 Would you comment on how that relates here in  
 19 the LNP context when we've had some testimony  
 20 talking about the fact that it appears that  
 21 end-users who aren't going to benefit, other than  
 22 perhaps generally from competition, and providers  
 23 who probably are looking at losing customers, not  
 24 gaining customers, appear to be bearing a lot of  
 25 those costs. And maybe you can kind of flush out

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1 those points from your perspective.

2 THE WITNESS: And you're correct.  
 3 You know, the cost causation relationship to how  
 4 number portability gets funded is not necessarily  
 5 consistent with cost-causer. I think what the FCC  
 6 and Congress intended when this was conceived was  
 7 that it would be a universal feature available  
 8 throughout the country and that everybody would be  
 9 paying to their current carrier and their future  
 10 carrier because when somebody ports their number  
 11 they stop paying their -- the LNP surcharge to  
 12 their former carrier but they start paying it to  
 13 their new carrier.

14 And so number portability surcharge wasn't  
 15 intended to be a competitive differentiator in the  
 16 marketplace. It was assumed that the marketplace  
 17 as a whole, almost as if it were a social program,  
 18 the marketplace as a whole would bear the  
 19 responsibility and the way to do that is drive that  
 20 cost down to an individual consumer level.

21 CHAIRMAN SAHR: And down to that  
 22 individual consumer level, let's talk a little bit  
 23 about the costs that could be borne by consumers,  
 24 and let's assume pass-through on these costs and  
 25 the companies choose not to eat any of it, which

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1 certainly they could choose to eat all or part of  
 2 it.

3 Looking at the figures we have here, would you  
 4 point to any of them as being so high that they  
 5 would have a significant adverse economic impact on  
 6 consumers?

7 THE WITNESS: I think this is one of  
 8 the toughest decisions you have to make is with the  
 9 known benefits available through competition versus  
 10 what an individual group of consumers would have to  
 11 pay, I think, as I've looked at these and if I  
 12 could think about sitting in your chair for a  
 13 minute across-the-board which of these companies  
 14 strike me as different in terms of the potential  
 15 impact on consumers, I think there's two or three  
 16 of these -- three certainly that stand out and  
 17 might be treated differently in terms of my answer  
 18 to this.

19 I think Faith is an example we've heard.  
 20 Faith has a relatively high cost and Western  
 21 projects low demand, and we think it would be  
 22 appropriate, for example, for the Commission to  
 23 provide Faith an extended suspension into 2005,  
 24 something like March 31, 2005 with Faith having the  
 25 opportunity to come back at a later time if they

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1 still are not confident that number portability  
 2 suits the needs of, you know, their customer base  
 3 and, you know, they still project expenses at the  
 4 level that they're projecting now.  
 5 So that would be an example where they stand  
 6 out because of low demand and high costs per line,  
 7 and I think the two of those are an indicator that  
 8 there's something special, there's something that's  
 9 different about their circumstances than what we  
 10 see with most of the rest of the Petitioners.  
 11 CHAIRMAN SAHR: And you indicated  
 12 that you thought there were three that might be of  
 13 at least interest for the Commission to analyze.  
 14 What would the other two be?  
 15 THE WITNESS: Well, the other two  
 16 that kind of bump up against that threshold I think  
 17 would be Stockholm and Tri-County.  
 18 CHAIRMAN SAHR: And with that  
 19 threshold I'm going to ask you the difficult  
 20 question and maybe one that you inevitably must  
 21 avoid, the question is what is that threshold?  
 22 THE WITNESS: Where do you draw the  
 23 line? You know, the line is not a thin red line or  
 24 a thin black line. It's probably a wide gray line.  
 25 And, you know, I can only give you my opinion

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1 and experience. And I think what we're looking at  
 2 here are three companies with -- even though these  
 3 aren't what will actually appear in a tariff but  
 4 appear to have costs that are, you know, in excess  
 5 of -- north of \$2. And I think that's reasonable.  
 6 There is some question as to, well, how do you  
 7 determine adversity, you know, if \$2 is -- you  
 8 know, it's X percent of a monthly rate or it's X  
 9 percent of a current set of tariffs and taxes and  
 10 surcharges that a customer pays or it's X percent  
 11 of a total telecommunications investment a consumer  
 12 makes every month, I mean, those are different ways  
 13 to look at it and, you know, certainly from  
 14 Western's perspective where we try to provide a  
 15 portfolio of services we think consumers buy -- and  
 16 are price conscientious on a portfolio basis, not  
 17 on an individual line-item basis.  
 18 So I will tell you my experience and give you  
 19 an example. In Missouri, Commission staff in  
 20 Missouri took a look at thresholds. Again, I think  
 21 they had about 30 Petitioners in Missouri. All of  
 22 them produced costs. And the Commission staff  
 23 looked at it and said, you know, we think there's a  
 24 natural break point down there of \$1.50. But they  
 25 were basing their analysis on an assessment of an

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1 average monthly line charge of 7 to \$9.  
 2 So that's just an example of what, you know,  
 3 one state did to try and draw a line. And, again,  
 4 that was against costs that hadn't gone through a  
 5 hearing process. But that's an example.  
 6 CHAIRMAN SAHR: And I'll give you  
 7 the flip side of that to talk about, if you know.  
 8 Your company's surcharges, you do have a \$1.70  
 9 surcharge that is called an administrative and  
 10 regulatory surcharge?  
 11 THE WITNESS: That's correct.  
 12 CHAIRMAN SAHR: Local number  
 13 portability, CALEA, E911, number pooling, and that  
 14 might be it or maybe there's one other factor.  
 15 THE WITNESS: Yeah. I'm not sure of  
 16 all that goes in there, but it is intended to bring  
 17 all of those regulatory mandated recoverable fees  
 18 together in one line-item and it's \$1.70.  
 19 CHAIRMAN SAHR: Were you involved at  
 20 all in analyzing that type of charge and the  
 21 economic impact it would have on your consumers?  
 22 THE WITNESS: I was involved in the  
 23 very early stages of what the LNP cost might be  
 24 that would be recoverable by Western Wireless, but  
 25 beyond that early estimate, which I don't think

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1 ultimately was used, beyond that I don't know how  
 2 they were calculated.  
 3 CHAIRMAN SAHR: And I would imagine  
 4 that a typical bill from your company would be more  
 5 in the 35, \$40 type range. Have you had any  
 6 opportunity to look at the impact of a surcharge on  
 7 that whereas -- and I'm not necessarily talking the  
 8 context at this point since you said you really  
 9 weren't involved in setting that particular charge,  
 10 but have you ever looked at or do you have an  
 11 opinion as to when a charge is too much from your  
 12 company's perspective?  
 13 THE WITNESS: I really -- I haven't  
 14 been involved in that piece of the business so I  
 15 don't think I could answer that.  
 16 CHAIRMAN SAHR: Switching gears,  
 17 we've had a lot of conversations about BFRs?  
 18 THE WITNESS: Yes.  
 19 CHAIRMAN SAHR: Obviously you've  
 20 established a paper trail of setting out BFRs to  
 21 the telcos. Did you do any follow-up contacts  
 22 after those BFRs or what did you do -- you know,  
 23 we've kind of had the context of, well, the ball  
 24 was in their court. Did you take steps to try to  
 25 move the ball forward and the issue forward or



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1 here's the hot potato, it's yours now, and we're  
2 out of it?

3 THE WITNESS: Well, I mean, there's  
4 no question we had hoped that the hot potato would  
5 gain some attention, but the process we took,  
6 again, it was across multiple states, and in our  
7 serving area, I mean, we deal with more than 300  
8 rural telephone companies, and as I described  
9 earlier, we kind of broke the process down into  
10 phases with those that were most important to us.  
11 We sent out bona fide requests first. And those  
12 all went out in the September to November time  
13 frame. And we used a bona fide request template  
14 that was sponsored by the CTA but acknowledged as a  
15 bona fide approach by the FCC. Those all went out.

16 Our follow-up to that was to send what we  
17 called an LNP operations agreement draft out, and  
18 we sent those out in mid-December, December 10 to  
19 the 18th, to most of the companies that we had sent  
20 bona fide requests to, and I think there's in  
21 evidence that -- cover letters that are associated  
22 with that.

23 We asked them for follow-up. We provided them  
24 our information. We suggested that this is an  
25 agreement that could be used, although no agreement

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1 is required to do number portability. And then in  
2 that agreement we also provided some rudimentary  
3 information about our porting contacts and that  
4 kind of thing.

5 From there we really -- we got some follow-up  
6 with some companies and we worked with those  
7 companies, telephone companies to -- in dialogue to  
8 get through the process of their implementation of  
9 LNP, and then in April as we were coming closer to  
10 the timeline -- late March, the first of April, we  
11 began calling all of the companies that we hadn't  
12 heard anything back from and, you know, we made --  
13 we made at least one attempt, if not two attempts  
14 to get ahold of folks. And by that I mean leave  
15 messages specific to follow-up on LNP. And again  
16 we heard back from some and those we heard back  
17 from we worked with them to get implementation  
18 accomplished.

19 CHAIRMAN SAHR: And I was encouraged  
20 to see things move forward with James Valley. And  
21 I realize that for every company or cooperative  
22 that you're working with the facts are going to be  
23 different that's going to make it easier or harder.  
24 And I was also, though, encouraged it appears the  
25 managers who have testified in Western Wireless are

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1 still willing to continue to negotiate and talk  
2 through that process. Are you still willing to  
3 work with the other players and see if you can't  
4 come up with some type of solution short of a  
5 Commission Order?

6 THE WITNESS: Absolutely. From my  
7 perspective, there's no reason this thing couldn't  
8 be settled this afternoon and implemented by the  
9 end of July.

10 CHAIRMAN SAHR: And I'm sure they  
11 could come up with a solution they think could be  
12 done by this afternoon.

13 MR. SMITH: Let's get a tee time.

14 CHAIRMAN SAHR: That would be the  
15 best birthday present you've ever had.

16 Along those lines and maybe it's impractical  
17 and maybe sometimes having a regulator in the room  
18 isn't the way to facilitate private negotiations  
19 among parties, but is there any merit of trying to  
20 come up with some type of working group to analyze  
21 these issues? Because we hear proposals and it  
22 seems like it's either A or Z coming in from the  
23 two sides, and is there something in the middle we  
24 could possibly have a role in helping to  
25 facilitate?

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1 THE WITNESS: I think the most  
2 important thing you can do to facilitate  
3 implementation or resolution of issues is to make  
4 sure that the obligation appears as an obligation  
5 to implement LNP and put a stake in the ground as  
6 to when that needs to happen. The rest of it will  
7 fall into place.

8 I mean, there's been enough study and enough  
9 implementation of LNP where first of all there's no  
10 one right answer. There are answers that are  
11 faster than others. There are answers that are  
12 more economical than others. There are answers  
13 with more flexibility than others. And, you know,  
14 I don't think when we've seen companies that were  
15 members of a group that actually had pursued a  
16 petition process like this, when it comes right  
17 down to their implementation it's different for  
18 every one of them or there are variations among the  
19 group.

20 I don't think, you know, a working group at  
21 this point would rehash the science that has  
22 already been implemented. Again, I would say a  
23 stake just needs to be put into the ground and if  
24 you can put a stake firmly in the ground and make  
25 sure everybody believes there's an obligation to

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1 get to that stake, then in the natural course of  
2 the business affairs things will get done.

3 CHAIRMAN SAHR: Along those lines  
4 you mentioned -- you gave a recommendation for  
5 Faith, and I realize -- as far as when a deadline  
6 for suspension would be appropriate, and I realize  
7 that your position is that you'd rather not see any  
8 delay.

9 At the same time, looking forward at the  
10 potential options strictly from a hypothetical, not  
11 to hold your company to this, we're trying to  
12 grapple with if this does, in fact -- if they can,  
13 in fact, prove their case as far as suspension is  
14 concerned, how long should that suspension be.

15 Would you please comment on what you think  
16 would be appropriate periods of suspension or  
17 suspensions?

18 THE WITNESS: Sure. Well, what  
19 we're talking about is how quickly is it practical  
20 for them to get the work done, even though, you  
21 know, we could argue about where they should be  
22 today versus where they are. I've seen proposals  
23 from Qwest that says they can implement the transit  
24 solution that we suggested as an option within  
25 three weeks.

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1 I know from my experience with implementation  
2 and number portability and from testimony from  
3 other telephone companies that the activation of  
4 number portability on a switch in most cases is not  
5 a long interval process. Now, in fact, in most  
6 cases the software is already loaded on the switch,  
7 you just need to send a purchase order to Nortel  
8 and they'll activate the software for you. And  
9 then, of course, you have to test it after that and  
10 there's a process associated with that.

11 So, you know, the technical timeline probably  
12 isn't as long as you might think it to be. I  
13 think, you know -- I don't know when your order  
14 date is on this particular proceeding, but I think  
15 the FCC has set up a, you know, reasonable  
16 guideline -- their expectation by the time they say  
17 yes or no to an application that things can get  
18 done within 60 days.

19 CHAIRMAN SAHR: And if we were to  
20 grant a suspension and set it for a certain amount  
21 of time, what would be the process for reviewing if  
22 that time period should be extended or not? And I  
23 ask it knowing maybe the FCC's already answered  
24 that question or maybe they haven't. Do you know  
25 the answer to that question?

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1 THE WITNESS: I think once you set a  
2 time frame that, I mean, it is -- it becomes an  
3 absolute time frame, and to the extent that  
4 carriers aren't able to meet that mandated time  
5 frame, they would be subject to whatever remedies  
6 exist for, you know, being in noncompliance.

7 CHAIRMAN SAHR: And when we were  
8 analyzing your proposal that was put up and you  
9 talked about using Qwest, are there differences  
10 between using Qwest and SDN?

11 THE WITNESS: Yeah. I think SDN  
12 could be implemented today. And, again, we're  
13 talking about an interim let's get this thing done  
14 approach versus what might be the more elite  
15 endgame approach. But we heard yesterday that SDN  
16 provides a centralized tandem function for equal  
17 access for all of these carriers, that trunks  
18 already exist into that equal access tandem, and  
19 that those are toll trunks today.

20 But we also went through some math that  
21 indicated that the telephone companies would have  
22 to absorb costs if they sent traffic to port  
23 numbers down those toll trunks and that number was,  
24 in my opinion, more expensive than if they would go  
25 through the Qwest transit option but it's

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1 immediately available to them once they perform the  
2 translations on their switch.

3 So that would be -- I mean, in terms of  
4 getting going and particularly in terms of the fact  
5 there's not going to be an instant, you know,  
6 uptake in volume here. We're talking about a  
7 process where we have to start selling our services  
8 to wireline customers so it's going to be a slow  
9 ramp-up, and the traffic volumes in the beginning  
10 are likely to be very low for several months until  
11 we get some traction in terms of marketing and  
12 until word of mouth gets around about the options  
13 that are available.

14 So we're looking at a very kind of slow  
15 ramp-up and faster uptake, you know, months out.  
16 So a solution like using SDN and existing toll  
17 trunk groups, I mean, that could be done with very,  
18 very modest, I mean, not even in the rounding kind  
19 of costs and that could be followed on after, you  
20 know, agreements or relationships were built with  
21 other -- Qwest, for example, or different facility  
22 arrangements were established with SDN that allowed  
23 these telcos to separate the toll traffic from the  
24 local traffic.

25 CHAIRMAN SAHR: And then my last

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1 question is one that relates more towards the  
2 actual charge that might end up being either  
3 absorbed by the provider or else passed on to the  
4 consumer.

5 We heard testimony about how that charge  
6 under -- I don't know if it's under the Act or  
7 under FCC regs or rules or Orders set and then is  
8 fixed, meaning that, okay, an Order comes out  
9 saying you will do this, they peg their charge, I  
10 assume, and then if the costs rise, there's no way  
11 to go back and review that. And I know part of  
12 this kind of came into the question of, well, how  
13 many wireless carriers are there going to be out  
14 there.

15 But do you know as far as how that costing  
16 part will work if there is a surcharge and is that  
17 fixed or are there ways for our Commission to give  
18 reasonable flexibility to acknowledge that the  
19 market may change?

20 THE WITNESS: Well, I think there is  
21 precedent that the surcharge can be adjusted. And  
22 Bell South just was referenced yesterday but they  
23 had some incremental costs that they were going to  
24 incur for intermodal LNP over and above the LNP  
25 they had deployed for CLECs. And they went to the

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1 FCC, and the FCC basically said, yes, you can  
2 adjust your surcharge to reflect the incremental  
3 costs and they granted that not only to Bell South  
4 but to other carriers similarly situated.

5 I think it's important to understand that the  
6 methodology of the recovery mechanism was built  
7 based on the assumption which is still correct  
8 today that almost all the costs associated with  
9 number portability are one-time costs, and in spite  
10 of the cost structure we have seen where it's  
11 contingent upon if there are three or five wireless  
12 carriers in the marketplace, a tandem routing  
13 solution, whether it's SDN or Qwest or some other  
14 tandem routing, is not wireless carrier dependant.  
15 It is traffic dependant and traffic is driven by  
16 how many customers pour out, not by necessarily how  
17 many competitors there are in the market.

18 So, you know, you don't have to worry about  
19 this, you know, prediction of how many wireless  
20 carriers are going to be operating in your market.  
21 And then we also heard that, you know, the  
22 timeline -- the port processing interval, you know,  
23 that that might be subject to change and, in fact,  
24 the FCC has taken that under review.

25 Currently the interval for wireline ports is

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1 four days and we are porting with wireline carriers  
2 today and going through that four-day process. The  
3 FCC uses one of its -- an industry organization,  
4 the North American Numbering Council, to deal with  
5 this kind of thing and they've asked them to come  
6 up with a recommendation as to what -- about  
7 shortening that porting interval.

8 That recommendation was issued in May. It  
9 basically said, you know, if reducing the porting  
10 interval is going to be a high-cost item for  
11 telephone companies that have invested a lot in  
12 their IT infrastructure, to do the four day, but  
13 for companies that are already using largely a  
14 manual process, you know, there's not a lot of  
15 impact.

16 They also recommended that the interval --  
17 before any interval happens that the FCC provide  
18 two years of notice before that implementation.  
19 Now the FCC has this under consideration right now,  
20 and when they'll actually order it, I don't know.  
21 But it's at least, according to the recommendation,  
22 two years away before any reduction would be made.  
23 The reduction that was recommended was from a  
24 four-day to a two-day interval, not to the two and  
25 a half hours that wireless carriers would liked to

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1 have seen. So it's a four-day to a two-day  
2 interval. I don't think that that uncertainty  
3 changes any of the financial circumstances for the  
4 Petitioners in this state.

5 CHAIRMAN SAHR: Thank you.

6 MR. SMITH: It's 12:15. Do we want  
7 to take a break now or proceed with his total  
8 testimony, or how do you want to do that? Take a  
9 break?

10 MR. COIT: That would be fine. I  
11 just have a question for you. I can't recall. Did  
12 I offer into evidence SDTA Exhibits 3 and 4? If I  
13 didn't, I would like to do that now.

14 MR. SMITH: 4, didn't we take  
15 judicial notice of that? I think we just labeled  
16 it.

17 MR. COIT: If I didn't offer the  
18 other one.

19 MR. SMITH: 3 you didn't offer.

20 MR. COIT: I would like to offer  
21 that now at this time.

22 MR. WIECZOREK: No objection.

23 COMMISSIONER BURG: Which was 4?

24 MR. SMITH: 4 was the ITC contract,  
25 and we judicially noticed it yesterday so it's

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1 already part of the record.  
 2 Let's take a break and give everybody a  
 3 chance -- 1:30.  
 4 (A lunch recess is taken)  
 5 MR. SMITH: We're back on the  
 6 record. We were in the Commissioner question  
 7 portion of the examination here, and are you done,  
 8 Bob?  
 9 CHAIRMAN SAHR: Yeah.  
 10 MR. SMITH: Jim, do you have  
 11 questions?  
 12 COMMISSIONER BURG: I have a few.  
 13 They're kind of along the same line. I don't want  
 14 to be repetitive. Some of the issues I had are the  
 15 same ones Commissioner Sahr brought up.  
 16 Do you feel that every utility or every  
 17 company should be treated individually, each one  
 18 should be looked at?  
 19 THE WITNESS: Yes, I do.  
 20 COMMISSIONER BURG: But then when  
 21 you talked about the benefits of competition were  
 22 you talking every single company, or were you  
 23 talking in generality?  
 24 THE WITNESS: Well, I think the  
 25 benefits of competition as they would be applied

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1 would be specific to the companies.  
 2 COMMISSIONER BURG: So then one of  
 3 the questions that came to my mind is what benefits  
 4 of competition can you identify for some of the  
 5 individual companies that we have before us today?  
 6 THE WITNESS: Well, I mean, the  
 7 benefits of competition will allow their consumers  
 8 a choice in who they can get their service from and  
 9 still maintain their same telephone number.  
 10 COMMISSIONER BURG: You know, is  
 11 choice always -- you know, is choice always that  
 12 beneficial? I'm getting at the fact that, you  
 13 know, I've grown up -- I remember before we had  
 14 electric power, central electric power at our farm,  
 15 and we were just pretty fortunate to have one  
 16 provider let alone competitive ones. And sometimes  
 17 your service deteriorates when you have more than  
 18 one in a very, very small market.  
 19 But beyond that -- not more than beyond the  
 20 competition, I'm interested in how much LNP  
 21 enhances that competition. You've already  
 22 indicated or testified that you are competing now;  
 23 is that correct?  
 24 THE WITNESS: We are competing now.  
 25 And LNP enhances the competition because for a

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1 certain segment of the population their telephone  
 2 number is an important piece of their identity in  
 3 terms of how to communicate with them, and, you  
 4 know, it's not every person --  
 5 COMMISSIONER BURG: Do you feel  
 6 that's true in most of the companies that are in  
 7 front of us, consumers in those companies?  
 8 THE WITNESS: I believe that whether  
 9 it's a rural or an urban consumer that the  
 10 telephone numbers can become important to an  
 11 individual.  
 12 COMMISSIONER BURG: How much greater  
 13 would your customer base be if LNP had been in  
 14 force for, say, the last five years?  
 15 THE WITNESS: You know, that's hard  
 16 to say.  
 17 COMMISSIONER BURG: And what  
 18 percent -- what percent of your business can you  
 19 attribute to LNP being available in the nonrural  
 20 areas, your business growth in the period that it's  
 21 been available?  
 22 THE WITNESS: We actually haven't  
 23 implemented our marketing plan to target wireline  
 24 customers as of yet. We've held off because of the  
 25 fragmented nature of the marketplace today. So we

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1 haven't aggressively attacked the wireline market.  
 2 COMMISSIONER BURG: Have you had  
 3 that situation any place in your national  
 4 footprint?  
 5 THE WITNESS: We have just  
 6 implemented number portability in January of 2004  
 7 this year.  
 8 COMMISSIONER BURG: So at this point  
 9 everything that you talk about as being beneficial  
 10 is theoretic? You don't have any --  
 11 THE WITNESS: We've only got really  
 12 about a month's worth of experience -- actually  
 13 today a month's worth of experience in rural areas,  
 14 and in that month's time we've probably had 5 to  
 15 800 wireline to wireless ports.  
 16 COMMISSIONER BURG: Basically the  
 17 benefits that you've advocated extremely pretty  
 18 much so here so far are theoretical, and you don't  
 19 have any empirical data LNP availability has  
 20 enhanced your customer base then?  
 21 THE WITNESS: Other than the one I  
 22 just gave you, no.  
 23 COMMISSIONER BURG: What did you  
 24 give?  
 25 THE WITNESS: I said we ported 5 to

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1 800 wireline numbers in the last month.  
 2 COMMISSIONER BURG: South Dakota?  
 3 THE WITNESS: System wide.  
 4 COMMISSIONER BURG: That's the  
 5 challenge I think we have here is given the cost  
 6 that we've seen, even to me if it's only a quarter  
 7 increase in the state, we've denied increases for  
 8 E911 or 911 because of a quarter or 50 cents or a  
 9 small number.  
 10 So, I mean, I think you indicated that you  
 11 agree it's pretty hard to put a figure on that  
 12 number depending on the individuals because a  
 13 quarter to some people's phone number is difficult,  
 14 a quarter a month on top of all the other things  
 15 that's been added to it. That's the difficulty  
 16 that I have here.  
 17 I'm trying to find out what the benefits would  
 18 be to those consumers as compared to what the costs  
 19 would be to people who don't even get any benefits  
 20 or don't want any of the benefits.  
 21 If we had a cost-causer, cost-payer -- and I  
 22 know in the testimony we've heard so far we've had  
 23 several people mention do you offer DSL or  
 24 something? Well, usually if you want DSL, you have  
 25 to pay for it. In this case if you want LNP,

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1 basically somebody else is paying for it, or it  
 2 isn't there.  
 3 THE WITNESS: There are other  
 4 examples where a cost-causer doesn't pay for the  
 5 costs of the implementation.  
 6 COMMISSIONER BURG: I agree, but I  
 7 don't know many where I feel there's less what I  
 8 see in benefit, evidentiary benefit. Because  
 9 you're able to compete, you are competing, people  
 10 are buying your service, people are buying both  
 11 services in most cases, and the kind of costs we're  
 12 talking about I want to see and I want to give you  
 13 the opportunity to give me some numerical value in  
 14 LNP in these companies that we have here.  
 15 You indicated a couple were evident to you you  
 16 didn't think the value would be there. I want to  
 17 give you a chance to convince me some of these  
 18 others there will be that much value to this  
 19 expense.  
 20 THE WITNESS: It's hard to give  
 21 experiential information for something that hasn't  
 22 been experienced yet. But the studies that I  
 23 referred to in my testimony and the studies that  
 24 we've conducted would indicate that our projections  
 25 of ports, intermodal ports in these telephone

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1 companies' service areas over the next five years  
 2 are in line with projections made by several  
 3 independent organizations, as well as by, you know,  
 4 our recent survey we've taken of rural consumers.  
 5 COMMISSIONER BURG: Is this part of  
 6 what you're referring to?  
 7 THE WITNESS: That's Western  
 8 Wireless's internal survey. I had cited additional  
 9 independent studies from PriMetrica and others that  
 10 indicate a wireline to wireless migration  
 11 facilitated by number portability over the next --  
 12 they've forecasted for different periods of time  
 13 and those forecasts range everywhere from, you  
 14 know, 3 or 6 percent to 50 percent.  
 15 But most of them come around and, you know, in  
 16 the 3 percent per year range, which is similar to  
 17 the experience that -- of line loss experience that  
 18 we've seen in competitive markets when LNP has been  
 19 implemented on a wireline to wireline basis.  
 20 COMMISSIONER BURG: But does this --  
 21 what in this survey that you have indicates value  
 22 of LNP?  
 23 THE WITNESS: Well, I think it  
 24 indicates that consumers are interested in having  
 25 this choice.

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1 COMMISSIONER BURG: It indicates  
 2 that they're interested in being able to get a cell  
 3 phone. I don't see any of your questions that  
 4 refer to LNP at all. That's the thing I'm trying  
 5 to separate. I realize the value of cellphones.  
 6 THE WITNESS: I think in chart 1 the  
 7 clear example there is that, you know, 16 percent  
 8 indicated that they would replace their landline  
 9 phone with wireless only.  
 10 COMMISSIONER BURG: But not because  
 11 of LNP necessarily; right? Or at least there's  
 12 nothing in there --  
 13 THE WITNESS: LNP is clearly a  
 14 facilitator for them to make that choice. It drops  
 15 the last inhibitor.  
 16 COMMISSIONER BURG: I'm considering  
 17 replacing my landline with a cell phone, but I  
 18 don't care whether I port or not so I'm not sure  
 19 that's there.  
 20 The other point I want to bring home is you  
 21 made quite an issue of -- it was the federal policy  
 22 in the Telecommunications Act as well as the FCC  
 23 indicated they wanted local number portability as  
 24 they thought it was a national policy.  
 25 THE WITNESS: Correct.

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1 COMMISSIONER BURG: But they also --  
2 and the reason we're here today is because they  
3 also saw it may not be the right thing everywhere  
4 and left options.

5 THE WITNESS: They provided for a  
6 situation like this to review it on the standards  
7 we've discussed today.

8 COMMISSIONER BURG: And you  
9 indicated two or three today that you feel probably  
10 don't make sense, if I understood what you were  
11 saying; is that correct? For example, Faith and  
12 one or two others.

13 THE WITNESS: I suggested that for  
14 three of the companies that if it were me sitting  
15 in your chair, that it might be appropriate to give  
16 them an extended suspension with a firm date. And  
17 I suggested that that would be March 31 of next  
18 year. And they'd have the opportunity to come back  
19 before the Commission if they still felt that it  
20 was a burden for them to implement LNP at that  
21 time.

22 COMMISSIONER BURG: So for us to  
23 decide, it's a matter of degree, you know, what is  
24 the right level.

25 One last question from me. You mentioned too

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1 in the benefits of LNP was number conservation. Do  
2 you think that's an issue in South Dakota?

3 THE WITNESS: I don't know if it's  
4 an issue in South Dakota.

5 COMMISSIONER BURG: I don't think  
6 we've ever had a challenge to number exhaustion in  
7 this state, you know, because of our size.

8 THE WITNESS: That's a good thing.

9 COMMISSIONER BURG: Well, it is, but  
10 it isn't. Sometimes it would be nice to have that  
11 problem with some growth. That's all I have.  
12 Thank you.

13 VICE CHAIR HANSON: Mr. Williams,  
14 good afternoon.

15 THE WITNESS: Good afternoon.

16 VICE CHAIR HANSON: Thank you very  
17 much for your prefiled testimony and the  
18 information you provided today. I appreciate it.  
19 I'm going to be -- it's pretty difficult being the  
20 very last person on the entire batting list to go  
21 through all the information. Some of it I don't  
22 mean for you to regurgitate. Some of it I'm  
23 planning on clarifying a bit. I'll be piggybacking  
24 on some of the items some of the other people were  
25 discussing, and forgive me if I'm redundant in any

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1 of the areas.

2 THE WITNESS: I'll likewise try not  
3 to be redundant.

4 VICE CHAIR HANSON: Appreciate it.  
5 I'm not positive where to begin. I'll start a  
6 little bit on the information that you provided,  
7 Western Wireless No. 9.

8 The information -- and these are just general  
9 questions. I don't think you're going to have to  
10 refer to anything on it. Would you consider that  
11 this option is the least expensive of the options?

12 You'll recall through a lot of the  
13 conversations that we've had with managers and  
14 other folks during the processes here earlier we  
15 were asking them if they didn't come up with the  
16 most expensive one, and I'm wondering a couple of  
17 things. Number one, did you come up with the least  
18 expensive method, and, secondly, is this the best  
19 practice?

20 THE WITNESS: Well, let me answer  
21 that in two ways. This is among the less -- our  
22 proposal, which we're suggesting might be tandem  
23 routed based solution, is among the least  
24 expensive. For some of the companies I think an  
25 option was discussed yesterday regarding routing

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1 through the SDN tandem for the traffic volumes.  
2 That even might be less expensive.

3 The genesis for this concept has been -- this  
4 is a common traffic routing scheme used in the  
5 industry today is when you've got low traffic  
6 volumes to centralize and share common facilities  
7 and then, you know, move them through a tandem  
8 where many, many carriers can connect -- and that  
9 was the motivation behind SDN and for a long time  
10 that's been what Qwest has done as kind of the  
11 routing focal point for the entire -- almost the  
12 entire state here.

13 So the concept is not new in that way. It was  
14 first applied in an LNP environment. We had it  
15 proposed to us by telephone companies, and we  
16 thought it to be a good solution. It is also the  
17 solution that was proposed by the Minnesota  
18 telephone companies.

19 The hearing that we know about that's going on  
20 today in Minnesota is not a hearing about what's  
21 the best method to use. The method there was, in  
22 essence, what we proposed here. And that method  
23 was designed and created and proposed by the  
24 Minnesota telephone companies. The hearing today  
25 is just to decide whether to give them an extra 60

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1 whatever days to finish implementation of it.

2 So not necessarily the least expensive.

3 Certainly among the least expensive. And I think  
4 there's evidence in the industry that for routing  
5 for low volumes of traffic that tandem routing  
6 scenarios using shared trunks is the best practice.

7 VICE CHAIR HANSON: You alluded to  
8 the SDN, and in your testimony earlier I believe  
9 you stated that you felt that that was a good --  
10 you perhaps are not the person to necessarily  
11 ask -- on a temporary basis, I believe you said.  
12 Would you think on a permanent basis that the SDN  
13 method would be --

14 THE WITNESS: Well, there's no  
15 question in my mind SDN is capable of doing this.  
16 Whether they want to or not, I don't know that, but  
17 certainly technologically capable of doing it. The  
18 interim piece I referred to is to route the traffic  
19 over existing toll trunk groups that are in place  
20 between the telco switches and the SDN tandem now.

21 I would think over time they would want to  
22 migrate those, you know, away from the toll trunks  
23 and then put them on a, you know, separate local  
24 trunk group.

25 But that largely would be driven by I think a

1 experience.

2 So wireless kind of took a fresh look at this  
3 and said, well, when we port wireless to wireless  
4 we don't have to worry about loops, we've just got  
5 to make sure that number gets over there from one  
6 carrier's network to another. They designed a  
7 whole set of rules and sessions around that. It  
8 doesn't work perfectly. Porting is not a perfect  
9 science. It hasn't been in the wireline to  
10 wireline world. It certainly isn't in the wireless  
11 world. Our fallout percentage on ports is -- now  
12 that we've been at it a month, has gone from  
13 50 percent down to around 20 percent.

14 And when I say fallout it means it didn't work  
15 the first time through, we've had to go back and  
16 call somebody or validate some information or  
17 something like that to make the process go through.

18 So there are issues. They're not unexpected.  
19 And learning experience, learning curve both on a  
20 carrier basis but also on an industry basis is  
21 streamlining the processes daily.

22 VICE CHAIR HANSON: So would you say  
23 that wireless companies could implement different  
24 types of standards to make the porting more easy or  
25 less expensive?

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1 price issue of SDN. SDN, I don't know what they  
2 pay or what the cost is of shipping traffic over  
3 that trunk group today on a toll trunk. I guess  
4 I'm just assuming that SDN might have a different  
5 price point if it's local traffic.

6 VICE CHAIR HANSON: That's why I  
7 prefaced my question by stating that I didn't think  
8 you were necessarily the best person to answer that  
9 question, but I was curious on your answer.

10 Are there different wireless standards that  
11 could somehow affect the porting of numbers from  
12 one wireless company to another wireless company?

13 THE WITNESS: Wireless standards and  
14 the porting of wireless to wireless are governed  
15 under a -- well, a set of standards that was  
16 developed by the wireless industry and came up with  
17 a pretty comprehensive and explicit set of rules.  
18 And what we've tried to do is simplify the porting  
19 process because it's not -- the original porting  
20 rules were set up for really CLEC porting, and a  
21 CLEC port involved a lot more than just the number.  
22 There were usually loops involved and sometimes you  
23 had to send technicians out physically to a  
24 location to make a port work on a CLEC. And the  
25 time frames and intervals were designed around that

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1 THE WITNESS: Well, yeah. In fact,  
2 we port differently depending upon another  
3 carrier's circumstances. Verizon Wireless, for  
4 example, our porting relationship with them is  
5 fully automated and things just happen -- it  
6 doesn't even take two and a half hours.

7 There are other wireless carriers that, you  
8 know, we're sending faxes with them and, you know,  
9 it's a real different process. And then we are  
10 porting with wireline companies today and we are  
11 using a four-day interval and we're using wireline  
12 forms to do that on versus the wireless forms we  
13 would use.

14 So we are able to, you know, make  
15 accommodations for different processes. But in the  
16 end the actual processes, as much preparation as  
17 you have to do for it, it's reasonably simple. If  
18 you can envision it, somebody sends you a fax which  
19 amounts to a port request, and obviously somebody's  
20 receiving that fax. And they look at it, and on  
21 there it has a customer name and a telephone  
22 number, and it has some other validating  
23 information.

24 And it also says this is the date and time we  
25 would like this port to occur. And the person

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1 receiving that fax is going to turn to their  
 2 customer service system and make sure that the  
 3 phone number matches up with the name and that the  
 4 proper validation information is there and they can  
 5 meet the date that was requested for the event to  
 6 happen.  
 7 That company then responds back to the new  
 8 carrier that's going to win the service and says we  
 9 can do this on the date and time you scheduled or  
 10 we can't do it on the date and time you scheduled,  
 11 we can do it a day later, you know, whatever. And  
 12 so then now you've got a request for an order, and  
 13 you've got a confirmation of an order.  
 14 The next thing that happens if you're the  
 15 provider that's porting out the number is you have  
 16 to -- you don't have to actually, but you can agree  
 17 to release the number at the -- through the SOA  
 18 process we've been talking about. That's the  
 19 service order administration process.  
 20 And the way that would work for like the help  
 21 desk method we've been talking about is a carrier  
 22 would have a relationship with NECA who handles  
 23 this -- I'm sorry. Not NECA. NPAC who handles  
 24 this. They would call NPAC's number. They would  
 25 say I have a -- this is customer identification

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1 number, this is my password, I have number  
 2 (605) 742-1000 to release for a port on July 1 at  
 3 midnight. And that's the extent of the call. And  
 4 then NPAC will process that port as you've asked  
 5 for it to be scheduled.  
 6 The other thing that has to go on is that  
 7 you've got to set what's called a 10-digit trigger  
 8 in your switch, which just means you've got to let  
 9 your switch know that beginning on that date it's  
 10 got to route traffic to the ported number. And  
 11 then when that date comes you have to go and you've  
 12 got to just terminate -- it's like a customer  
 13 disconnect at that point, and it would be the same  
 14 process as a customer disconnect, I think. Those  
 15 are the steps involved in porting out a customer.  
 16 VICE CHAIR HANSON: Probably more  
 17 than I needed to know.  
 18 THE WITNESS: I'm sorry.  
 19 VICE CHAIR HANSON: But thank you  
 20 for answering the question so completely. One of  
 21 the challenges I have as a consumer purchasing  
 22 goods is the dynamics of the industry by which you  
 23 think is the best quality and the best type of item  
 24 and you're ready to go with it, and a month later  
 25 your son buys one that's far more advanced than

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1 what you have.  
 2 And I imagine if I were one of these managers  
 3 trying to figure out what I'm going to do if I'm  
 4 required to have a location with number  
 5 portability, I don't want -- and it's capital  
 6 intensive. I don't want to go out and spend a  
 7 whole lot of money if a new mousetrap is being  
 8 built and there's switches that are going to be  
 9 less expensive that are going to do twice as much  
 10 as the one that's available right now. That's a  
 11 real challenge.  
 12 And so when they start looking at investments  
 13 of this nature what -- ultimately the consumer is  
 14 the one who's going to pay for it. Is there sense  
 15 in waiting for a better product?  
 16 THE WITNESS: You know, there's  
 17 always a better product around the corner, but as  
 18 I've reviewed the materials provided through  
 19 discovery on the state of these telephone  
 20 companies' networks, they have -- most of them have  
 21 very current equipment and the incremental costs of  
 22 implementing LNP, though it appears significant as  
 23 a line item, is a fraction of their toll switch  
 24 investment to date.  
 25 And it's not likely that the costs for

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1 implementing LNP on like, for example, a Nortel  
 2 DMS-10 are going to change any time soon. It's a  
 3 solid product that's been in the marketplace for  
 4 six years now, six or seven years, and it's very  
 5 robust and, you know, don't foresee adding any  
 6 bells and whistles to the number portability piece  
 7 of the overall switch puzzle.  
 8 Now some carriers are looking at evolution  
 9 towards packet switching and all sorts of exotic  
 10 new ways to deliver services in the future. You  
 11 know, again, I think that the fractional investment  
 12 in terms of the overall switching costs that number  
 13 portability accounts for wouldn't affect those  
 14 decisions, shouldn't affect those decisions. And,  
 15 again, different companies will choose different  
 16 times and different methods to deliver the next  
 17 generation of services that are out there.  
 18 My perspective is it wouldn't be appropriate  
 19 to hold up number portability, you know, to see if  
 20 companies want to move to packet switching sometime  
 21 in the future to address Internet telephony.  
 22 VICE CHAIR HANSON: Thank you. On  
 23 page 3 of your testimony you take exception  
 24 apparently to the South Dakota Commission's ability  
 25 to make certain determinations in this case. And



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1 Mr. Dickens pointed out what appear to be some  
2 conflicts in your testimony in regard to that  
3 statement.

4 As I look through the testimony and compare  
5 one item to the next and then in Mr. Watkins'  
6 testimony, his rebuttal testimony on page 6 he  
7 states that "Petitioners seek a suspension or  
8 modification, not a waiver," is this simply  
9 semantics, or is there something to that?

10 THE WITNESS: Well, I think a lot of  
11 people use the words interchangeably, I think. I'm  
12 not a lawyer, but there is a difference in the FCC  
13 waiver process and the state suspension process.

14 VICE CHAIR HANSON: Okay.

15 THE WITNESS: And I'm not -- you  
16 know, we're here in this forum obviously dealing  
17 with the state suspension process.

18 VICE CHAIR HANSON: All right. So  
19 is that a point you're willing to --

20 THE WITNESS: Concede?

21 VICE CHAIR HANSON: Yes.

22 THE WITNESS: I think we ought to  
23 finish this and get a ruling and see where we go  
24 from there.

25 VICE CHAIR HANSON: So you're not

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1 conceding it, you're just saying let's play ball  
2 and see who wins the game and --

3 THE WITNESS: This is a good forum  
4 to resolve this.

5 VICE CHAIR HANSON: Well, that's  
6 encouraging. You made some statements about you  
7 had said something about providing Faith with an  
8 extension and you were giving -- hopefully  
9 conceding something, but you were stating that  
10 there were some extenuating circumstances. I'm  
11 using words you didn't use. And you referred to  
12 Faith and Stockholm and Tri-County.

13 THE WITNESS: Correct.

14 VICE CHAIR HANSON: As you were  
15 going through that, of course, I'm sure a number of  
16 us, especially managers, were running through in  
17 their mind how they compare with Stockholm and  
18 Kennebec and et cetera.

19 Excuse me. I gave up my question.

20 THE WITNESS: I don't want to give  
21 up the answer.

22 VICE CHAIR HANSON: In my own mind I  
23 was thinking Kennebec has 700 -- I looked it up as  
24 Mr. Burg was asking questions. They have service  
25 to 751 total access lines, and I didn't look up

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1 Stockholm's but I recall it was like 746 or 714,  
2 somewhere, 741, somewhere in that neighborhood.

3 Where do you draw the line? Is it 750 or 820?

4 THE WITNESS: I wouldn't draw the  
5 line on a company size basis. I would draw the  
6 line on demand versus costs. And in this case  
7 we're talking about end-user costs that would flow  
8 through the end-user. And that is affected by how  
9 many lines you have, but it is not necessarily a  
10 direct correlation between lines and implementation  
11 costs.

12 So when I suggested those three as candidates  
13 that distinguish themselves I was looking at, you  
14 know, what the costs per end-user would be versus  
15 what the demand might be in that area and suggested  
16 that they stood apart from the rest of the group.

17 Like you, at lunchtime I did a little  
18 research. I had it in my mind that Kennebec was a  
19 candidate, you know, for that same group, but there  
20 was -- I had some uncertainty about my confidence  
21 level in their costs, what they've provided as cost  
22 estimates. I reviewed that at lunchtime and I  
23 would be happy to include Kennebec in the group  
24 that would distinguish itself and would suggest  
25 that -- you know, a lengthier suspension for them,

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1 perhaps in the same time frame, the end of the  
2 first quarter 2005 and give them the opportunity to  
3 assess the situation.

4 VICE CHAIR HANSON: So ultimately it  
5 is true we should be looking at the consumers when  
6 we're examining these issues? We should consider  
7 demand as you have stated as one of the items that  
8 we should take into consideration, and I would  
9 assume economic burden as how that affects  
10 ultimately the consumer?

11 THE WITNESS: Yeah. The standard is  
12 adverse impact on users generally or something to  
13 that effect.

14 VICE CHAIR HANSON: One of the other  
15 items is technological feasibility, and, of course,  
16 I don't know that that's being argued anywhere, but  
17 certainly public interest and convenience, cost to  
18 consumer are all items that we should be looking  
19 at.

20 One last -- I believe one last series of  
21 questions, using Kennebec as an example. If a  
22 Kennebec customer switched his wireline number to a  
23 wireless and then moved to Sioux Falls, who would  
24 be responsible for the transport obligations of  
25 that?

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1 THE WITNESS: If a customer wished  
2 to do that, and there may be a few that would, but  
3 understand that when a customer did that they would  
4 not be able to receive local calls from  
5 Sioux Falls. They'd only be able to receive local  
6 calls from Kennebec, Kennebec's rate center.  
7 VICE CHAIR HANSON: George's family  
8 is all -- fictitious George is all around Kennebec  
9 and he's moving with his spouse who is also from  
10 Kennebec. And Susie's got a lot of family there,  
11 and they want to be able to make those calls.  
12 THE WITNESS: To the extent that  
13 they're making calls to Kennebec on our network,  
14 Western Wireless is paying to transport those calls  
15 back to Kennebec.  
16 VICE CHAIR HANSON: So they're using  
17 their number from the Kennebec exchange.  
18 THE WITNESS: Right.  
19 VICE CHAIR HANSON: Isn't Kennebec  
20 paying?  
21 THE WITNESS: No. Kennebec would  
22 only pay for -- or pay the transport, be  
23 responsible for the transport from calls that are  
24 originated by Kennebec customers in the Kennebec  
25 rate center to George and his family.

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1 VICE CHAIR HANSON: I didn't  
2 understand it quite that way. Okay. What happens  
3 if they move to Montana?  
4 THE WITNESS: Well, then nobody in  
5 Montana is going to be able to call them locally.  
6 And this is an anomaly of number porting. And, you  
7 know, I'm not saying it couldn't happen, but a  
8 customer would come in to us that wanted to port a  
9 phone number. I can't think of the circumstance we  
10 would recommend to that customer if they were  
11 relocating that they would keep the number from  
12 where they were relocating from.  
13 I mean, but again ultimately it boils down to  
14 customer choice. And the fact that a customer  
15 ports their number and remains a neighbor in the  
16 same rate center or a customer ports their number  
17 and moves across town or a customer ports their  
18 number and is on temporary assignment in, you know,  
19 Sioux Falls, to me that's part of the power of  
20 choice is that the customer gets to make that  
21 choice.  
22 The fact that the customer is next door or  
23 across town or in Sioux Falls didn't change the  
24 routing circumstances we've been talking about here  
25 for a few days.

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1 VICE CHAIR HANSON: I may need some  
2 further clarification in my mind. And I won't ask  
3 you to do it here, but I am curious as to the  
4 financial responsibilities and transporting  
5 responsibilities of situations of that nature and  
6 the complexity of challenges that has on our LECs.  
7 So if you have anything further to share on  
8 that, I'd appreciate hearing it right now. I'll  
9 look forward to someone else sharing some  
10 information later.  
11 THE WITNESS: I could take you  
12 through it pretty quickly. There are these  
13 diagrams that have been up here this morning that  
14 speak exactly to that in terms of responsibility  
15 and options that -- a couple of the options that we  
16 have talked about. They are an abstract form.  
17 They're not the nice turkey rainbow that we've seen  
18 before, but they take it down to a really simple  
19 level as to what we're talking about in terms of  
20 how calls are routed and who's responsible for the  
21 costs associated with -- based on where a call  
22 originates.  
23 If you don't mind --  
24 VICE CHAIR HANSON: If you'd like to  
25 do it quickly, yes.

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1 THE WITNESS: This is today's world  
2 where we have no ports. And this blue area here is  
3 the --  
4 VICE CHAIR HANSON: Excuse me for  
5 interrupting. That is an exhibit?  
6 MR. WIECZOREK: It is an exhibit,  
7 and I also have extra copies if it's easier to look  
8 at an extra copy rather than dig it out of the  
9 exhibits.  
10 VICE CHAIR HANSON: It's on the back  
11 of your testimony, your written testimony.  
12 (Discussion off the record)  
13 THE WITNESS: This blue area here  
14 represents the rate center that we're talking  
15 about. And in that rate center there's a switch, a  
16 telco switch, and we have two wireline customers  
17 here. They may be neighbors. And today a local  
18 call goes -- you know, this customer picks up the  
19 phone, calls the neighbor. The call goes to the  
20 switch and terminates on the neighbor's telephone  
21 and away we go.  
22 That neighbor might also have a wireless phone  
23 and using it in the same area. Today when this  
24 wireless -- when this person calls this person from  
25 a wireless phone, wireless phone goes to the cell

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1 site, the cell site is connected to Western  
2 Wireless's switch. In order for Western Wireless  
3 to get that call delivered to this phone we  
4 transport it to the LATA tandem, and we hire Qwest  
5 to deliver it to the telco end office. And then  
6 the telco delivers it to the phone.

7 Now in terms of compensation on that, first of  
8 all, the routing responsibility is Western's  
9 because it's our customer originating the call or  
10 our network originating the call. And, of course,  
11 it has to get back to our switch. Now we hire  
12 Qwest to do this for us because it's cheaper for us  
13 to do it that way when traffic volumes are low.  
14 And so we pay them roughly three-tenths of a cent  
15 to take the call from our interconnection here and  
16 deliver it here.

17 And then per our Interconnection Agreements in  
18 South Dakota we pay the telephone company for  
19 termination of the call, the end office switching  
20 termination of the call to that customer. So  
21 that's what's happening today.

22 Now if this cell phone doesn't have a local  
23 number and the neighbor wants to call the neighbor  
24 but they want to call them on their cell phone,  
25 that's going to be a toll call. This customer's

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1 going to have to dial 1 plus to make that phone  
2 call. That call is going to go to the telco end  
3 office. The telco's going to see it's a 1 plus  
4 toll call and they're going to route that to the  
5 SDN tandem where it will be picked up by a long  
6 distance carrier, go through the long distance  
7 carrier's network, delivered to the Qwest tandem,  
8 delivered to us, and delivered to the phone.

9 In that scenario compensation works quite a  
10 bit differently because it's toll. You've got the  
11 originating carrier for a toll call collects access  
12 on that. The interexchange carrier collects retail  
13 long distance. The terminating carrier, in this  
14 case Qwest, the transit carrier, collects  
15 terminating transit, and then we terminate the  
16 call. That's the circumstances that exist today.

17 COMMISSIONER BURG: Before you move  
18 that, if they both had a cell phone, it just goes  
19 to the cell tower and back; right?

20 THE WITNESS: If there were two  
21 cellphones here, actually back to the switch and  
22 out the other.

23 COMMISSIONER BURG: Still have to go  
24 through the switch, can't just be handled through  
25 the tower; right?

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1 THE WITNESS: In most cases. Let's  
2 talk about this one first because this is what is  
3 represented in the Interstate exhibit that was what  
4 we had proposed as our solution.

5 In this condition you've got a circumstance  
6 where the neighbor now has ported their numbers to  
7 wireless and, you know, we have a wireless phone  
8 represented here as a neighbor and a wireline here.  
9 Again, this person calls the neighbor on the same  
10 phone number they called before, and what we're  
11 suggesting is that the telephone company who's  
12 still responsible for delivering that local phone  
13 call would route the call to the LATA tandem, in  
14 essence, hire Qwest to deliver the call to Western  
15 Wireless and then Western Wireless would terminate  
16 the call here.

17 And the reverse in this -- in this case it is  
18 exactly the reverse. The wireless user contacts  
19 the landline user. The call goes through here.  
20 Western Wireless then hires Qwest to move the call  
21 this way. And so, I mean, there's symmetry in that  
22 when the call originates on Western Wireless's  
23 network we hire Qwest to deliver it to the telco.  
24 When the local call originates on the telco the  
25 telco hires Qwest to deliver the call to Western

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1 Wireless. That is the proposal we made.

2 And again --

3 VICE CHAIR HANSON: May I ask a  
4 question at this point, and perhaps you'll answer  
5 it on the next one. In the example I gave where  
6 the person with the cell -- with the wireless moved  
7 outside of the coverage area, and the person who's  
8 still living inside the coverage area makes a phone  
9 call, is there going to be an increase in cost to  
10 the LEC?

11 THE WITNESS: No. If this phone --  
12 and this is a real -- George's family. George  
13 moves from Kennebec's rate center, Presho, and  
14 moves to Sioux Falls where the tandem happens to be  
15 located. The situation in terms of routing doesn't  
16 change at all. The call will still be treated as  
17 local because the rate center of the call is here.  
18 And the telco will still have the responsibility of  
19 getting that to Western's point of interconnection  
20 here.

21 They can still hire Qwest to do it at the same  
22 rate, the same circumstance. Qwest is still going  
23 to deliver that to Western Wireless. Western  
24 Wireless is just going to use a different cell site  
25 to terminate to the wireless phone. So from a LEC

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1 or telco routing perspective, the circumstances  
2 aren't any different whether this call is made to  
3 the neighbor that's physically located 100 yards  
4 away or made to that phone when it's 100 miles  
5 away.

6 VICE CHAIR HANSON: Or in a  
7 completely different area, Florida.

8 THE WITNESS: No difference.

9 VICE CHAIR HANSON: Okay.

10 COMMISSIONER BURG: Just that  
11 there's more cost; right?

12 THE WITNESS: No more cost. No.  
13 The cost would remain the same. When somebody is  
14 in Florida what happens is, again, they'll be  
15 dialing a local number. That gets routed to the  
16 tandem, gets delivered to Western Wireless.  
17 Western Wireless turns around and puts it on an  
18 interexchange carrier network, and Western Wireless  
19 pays that cost.

20 VICE CHAIR HANSON: In this  
21 situation George is in Florida making the call. Is  
22 he originating with a Kennebec phone number --

23 THE WITNESS: Once the number was  
24 ported, it would be a Western Wireless phone  
25 number, and nowhere in the national routing

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1 reference tables would Kennebec even show up as the  
2 owner of that call or that traffic in any way.

3 What would happen is if they made that call  
4 from Orlando back to this number or back to  
5 anywhere in South Dakota, the carrier in Orlando,  
6 the wireless carrier in Orlando, would hand that  
7 call off to an interexchange carrier in Florida.  
8 That interexchange carrier would deliver that call  
9 back to this Qwest tandem, and Qwest would deliver  
10 it to Western Wireless, if it was to another  
11 wireless call, and Qwest would deliver it --  
12 actually Qwest would deliver it to Presho as a  
13 terminating access call, and Presho would collect  
14 terminating access on that call. I'm sorry. I've  
15 confused myself.

16 Presho's not in the -- if we've ported the  
17 number, Presho's not in the deal anymore. The call  
18 would terminate here to Western Wireless's point of  
19 interconnection, and Western Wireless would  
20 terminate it. So the wireless phone if the call  
21 was made from Florida on the wireless phone, the  
22 long distance carrier would terminate it to the  
23 Presho exchange, and it would terminate to the  
24 called wireline number. In that circumstance  
25 Presho would collect terminating access from the

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1 long distance carrier.

2 VICE CHAIR HANSON: Okay. Thank  
3 you.

4 THE WITNESS: One other scenario  
5 which we've also talked about and which is in place  
6 in many -- or several but not all conditions. And  
7 that's where we've added one thing to this diagram,  
8 and it's this direct connection between the  
9 wireless switch and the telco switch.

10 These are in places where it makes economic  
11 sense to have them in place, where there's a fixed  
12 cost associated with direct connects. We know that  
13 from looking at the cost estimates made by the  
14 Petitioners yesterday. There's investment costs  
15 and then there's a recurring fixed cost, which is  
16 high, and in order to justify that cost you've got  
17 to send a lot of traffic over that facility.  
18 Because what you get when you get a direct connect  
19 is you get a certain amount of capacity, and you  
20 pay a certain amount of money. And if you don't  
21 use much of the capacity, your cost per minute is  
22 hyperinflated. But if you are using a lot of the  
23 capacity, if you're designing for that volume of  
24 traffic, your cost per minute is actually less than  
25 hiring Qwest to do the work for you.

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1 And, again, in certain circumstances we do  
2 have this, and, in fact, it was that level of  
3 traffic exchange we have with James Valley that  
4 helped bring that deal to closure. Again, unique  
5 and different because Western has a different  
6 traffic relationship with each one of these  
7 carriers.

8 COMMISSIONER BURG: Can I ask one  
9 question?

10 VICE CHAIR HANSON: Thank you, John.

11 COMMISSIONER BURG: Would James  
12 Valley -- in the case of James Valley do they pay  
13 anything for the use of that line if it originated  
14 on their landline?

15 THE WITNESS: What we've agreed with  
16 James Valley was to -- actually we've agreed --  
17 Northern Valley is in the middle of that  
18 relationship as a CLEC that is providing this  
19 circuit for us, but what we've agreed to is Western  
20 Wireless is going to pay a certain rate which  
21 may -- which isn't necessarily the full cost of  
22 this circuit, and then the traffic exchanged across  
23 that circuit, if the traffic is going from Western  
24 Wireless to James Valley, James Valley would  
25 collect reciprocal compensation, and if the traffic

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1 is going from James Valley to Western Wireless,  
 2 Western Wireless would collect reciprocal  
 3 compensation.  
 4 VICE CHAIR HANSON: I fear I made a  
 5 friend in Kennebec, and I may have alienated all of  
 6 the rest.  
 7 CHAIRMAN SAHR: Vice Chairman  
 8 Hanson, do you mind if I ask a question about the  
 9 post-port tandem routing?  
 10 VICE CHAIR HANSON: Please do.  
 11 CHAIRMAN SAHR: This may not be the  
 12 right diagram to discuss this issue, but since  
 13 we're going through some of these scenarios, what  
 14 about the situation where I have a cell phone or a  
 15 wireless phone and the number is not local for that  
 16 particular community as far as the landlines are  
 17 concerned, and then I port my landline to my  
 18 wireless phone and then I've essentially gone from  
 19 people having to make a toll call to people being  
 20 able to call me as if it's a local call?  
 21 Is there any sort of associated loss to  
 22 revenue, and who bears that, if there is?  
 23 THE WITNESS: Yeah. We have that  
 24 circumstance today and let me take it in pieces.  
 25 The first circumstance you said was we have a

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1 mobile user who does not have a local number. And  
 2 the way things work for that, if it's a wireline  
 3 call, that mobile user, that's going to look like a  
 4 toll call. This user is going to pay toll charges  
 5 to their retail toll provider. The telephone  
 6 company is going to collect originating access on  
 7 that, whatever their originating access rate is.  
 8 So that's kind of compensation mechanism there.  
 9 Then you asked what would happen if the  
 10 wireline customer was able to port their number to  
 11 the mobile line and thereby making that a local  
 12 call? Well, a local call then won't have any  
 13 incremental charges associated with it. There will  
 14 be no toll provider involved. And what happens  
 15 then is that the originating carrier has an  
 16 obligation to deliver the call to the terminating  
 17 carrier so this will route this way, you know,  
 18 three-tenths of a cent per minute and Western will  
 19 terminate the call.  
 20 So the revenue loss when a customer ports  
 21 their number from any -- well, from any company  
 22 really to another company is you not only lose, you  
 23 know, the obvious monthly recurring charge, but you  
 24 in this case in the sense that it's no longer a  
 25 toll number, the telephone company is no longer

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1 going to be able to collect access on calls because  
 2 you've traded a long distance number for a local  
 3 number.  
 4 And, you know, again, that's the whole  
 5 argument -- not argument, but the whole basis of  
 6 connecting ported numbers to a rate center. You're  
 7 not allowed to port numbers out of a rate center  
 8 and change the way rating is done on calls by doing  
 9 that. You have to maintain the integrity of the  
 10 current rate centers and thereby the current rating  
 11 scheme, whether it's local or toll.  
 12 CHAIRMAN SAHR: Thank you.  
 13 VICE CHAIR HANSON: I'm done. Thank  
 14 you.  
 15 MR. SMITH: Jim.  
 16 COMMISSIONER BURG: I had just a  
 17 couple of quick ones. One of them was as a result  
 18 of Commissioner Hanson's questions you went through  
 19 a discussion about, you know, what the different  
 20 people could do. The problem I really have with  
 21 the whole thing is that the people that caused this  
 22 additional cost don't ever really see that cost.  
 23 There's no incentive to not do uneconomic things  
 24 for them. Because it's not reflected that I can  
 25 see. Is that correct or not?

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1 THE WITNESS: Anybody who ports  
 2 their number will be paying port charges up until  
 3 the time they port and will be paying port charges  
 4 to the company they port to. And so, you know,  
 5 they are contributing to the cost of local number  
 6 portability.  
 7 COMMISSIONER BURG: But aren't there  
 8 situations where they could be saving money by  
 9 porting some of the things we've had, adding a lot  
 10 of cost to all parties, maybe including Western  
 11 Wireless, and they don't see those additional  
 12 costs?  
 13 THE WITNESS: Well, I mean, I think  
 14 that's part of the value proposition that they look  
 15 at, you know. And as a competitor I know that's  
 16 what we look at in terms of what we offer in the  
 17 marketplace is what incentives, what value do we  
 18 have to put in front of a consumer so that they'll  
 19 choose us instead of someone else.  
 20 And I think that when we put a value  
 21 proposition on the table we have to look at our  
 22 bottom line and say can we afford to make that  
 23 offer.  
 24 COMMISSIONER BURG: I wanted to ask  
 25 just one more question to make sure I understand

<p>679</p> <p>1 this completely. If I just take the first page, 2 we'll just take Brookings. It could fit for any of 3 them. 4 If I understand this right, if you go to the 5 complete lower right-hand number, the .96 or just 6 under a dollar is what Western Wireless's system 7 that they're proposing would cost that customer per 8 month; is that correct, for local number 9 portability? 10 THE WITNESS: That would be 11 including the transport costs. The number above it 12 would be excluding transport. And that also 13 includes -- and then the numbers -- let's take the 14 numbers. .96 includes transport, and it includes a 15 12 percent allotment for taxes, excise taxes, sales 16 taxes, surcharges. 17 The .76 does not include transport, but does 18 include the allotment for taxes. The .85 includes 19 transport but no allotment for taxes. And the .68 20 is no transport and no allotment for taxes. 21 COMMISSIONER BURG: But for you for 22 what I would call your scenario of the ideal setup 23 would be the .96, everything's covered, and that's 24 what the local number portability cost would be to 25 the customers in the Brookings telephone system.</p>	<p>681</p> <p>1 Western Wireless's ports per year. 2 COMMISSIONER BURG: So you think 3 you'll get 496 ports per year. So yours is based 4 on -- 5 THE WITNESS: It represents about 6 3 percent of their landlines. 7 COMMISSIONER BURG: There's a huge 8 discrepancy between what the companies think would 9 be porting and what you think would be porting per 10 year; is that correct? 11 THE WITNESS: For Brookings there 12 appears to be. 13 COMMISSIONER BURG: There is a huge 14 difference. I don't know how we rectify that. I 15 just wanted to make sure I understood. 16 MR. SMITH: I had a couple of 17 questions. On the \$1.70 surcharge that you have, 18 do you know what portion of that is attributable to 19 LNP? 20 THE WITNESS: I don't know exactly. 21 I would say more than half. 22 MR. SMITH: More than half? 23 THE WITNESS: Uh-huh. 24 MR. SMITH: So your LNP surcharge, 25 then that would be somewhere along about 85 cents,</p>
<p>680</p> <p>1 THE WITNESS: This is the local 2 number portability costs that's been derived to 3 compare with what the Petitioners put forward. As 4 I understand their testimony yesterday, they said 5 this would not necessarily equate to the end-user 6 charge. 7 COMMISSIONER BURG: No. If you were 8 going to recover it, it would. Anyway -- 9 THE WITNESS: Yeah. 10 COMMISSIONER BURG: Well, I mean, 11 I'm just taking your description. Local number 12 portability costs per line per month including 13 transport. And, you know, cost, whether you 14 recover it all through rates, you know, is another 15 decision. 16 So looking at basically just under a dollar 17 per month per customer for every customer in the 18 Brookings system in order to port 24 people a year? 19 Is that what -- 20 THE WITNESS: No. In order to port 21 496 people a year. 22 COMMISSIONER BURG: Ports per year. 23 What's the 24? 24 THE WITNESS: The 24 is the 25 Petitioner estimates of ports per year. The 496 is</p>	<p>682</p> <p>1 you think? 2 THE WITNESS: Yes. In that 3 neighborhood. 4 MR. SMITH: Have you spoken at all 5 with SDN? The Qwest rate you said for transiting 6 is what, three-tenths of a percent? Have you 7 spoken at all with SDN about what their rate is? 8 Is that something that's available? Is that 9 published in their tariff? 10 THE WITNESS: To answer both of your 11 questions, we have approached SDN about using them 12 as a transit provider. They haven't been able to 13 provide us with a quotation yet. So I would guess 14 it's not a published price. It's not something I 15 don't think that they're in the business of doing 16 today as being a transit provider for local 17 traffic. 18 MR. SMITH: Okay. I mean, but do 19 you even know whether they are available to do 20 this? 21 THE WITNESS: I'm highly confident 22 that they have the network resources to do this. 23 Whether it's part of their business plan, I have no 24 idea. 25 MR. SMITH: And about the transport</p>

<p>683</p> <p>1 costs or transit costs, whatever we called them</p> <p>2 here, you talked about the overall LNP cost</p> <p>3 situation in terms of -- and its relationship to</p> <p>4 the policy that the FCC implemented, you know,</p> <p>5 basically as being one where the FCC sets forth a</p> <p>6 policy objective of LNP.</p> <p>7 That same obligation is on all carriers, and</p> <p>8 so to the extent that you lose here, you gain here,</p> <p>9 I guess, in the sense of it's a burden on everyone.</p> <p>10 I guess the question I would have is could you</p> <p>11 address maybe how that applies to the transport</p> <p>12 cost issue we're talking about here? Is that a</p> <p>13 reciprocal cost situation in this case?</p> <p>14 THE WITNESS: The transport costs?</p> <p>15 MR. SMITH: Attributable to getting</p> <p>16 calls, ported calls, to the LATA -- or to the</p> <p>17 tandem.</p> <p>18 THE WITNESS: You know, I view it as</p> <p>19 reciprocal. And, again, it boils down to a simple</p> <p>20 concept that with respect to a local call it's the</p> <p>21 originating carrier's responsibility to deliver</p> <p>22 that, and the burden is reciprocal for all</p> <p>23 originating carriers.</p> <p>24 And generally on local traffic the traffic is</p> <p>25 balanced, and there is no, you know, additional</p>	<p>685</p> <p>1 towards USAC. But I would say, you know, the</p> <p>2 opportunity to, you know, receive those funds and</p> <p>3 reinvest them is -- will help drive our business</p> <p>4 and make it stronger in rural areas.</p> <p>5 MR. SMITH: It's more revenue to the</p> <p>6 company.</p> <p>7 THE WITNESS: It's more than that,</p> <p>8 but, yeah.</p> <p>9 MR. SMITH: And because the</p> <p>10 incurrence of additional costs by the ILECs here</p> <p>11 will presumably result in some increase in USAC</p> <p>12 funds for them, high-cost support in some ways is</p> <p>13 going to increase, in turn that's going to increase</p> <p>14 the USAC funds that you received because your</p> <p>15 costs -- or your rates are directly tied to theirs.</p> <p>16 Is that true?</p> <p>17 THE WITNESS: You know, until</p> <p>18 yesterday when I heard that, that had never</p> <p>19 occurred to me.</p> <p>20 MR. SMITH: Okay. That's really</p> <p>21 what I'm asking you. Is that part of the objective</p> <p>22 here, or is that just an unintended consequence?</p> <p>23 THE WITNESS: Byproduct. An</p> <p>24 unintended consequence. Our objective here is to</p> <p>25 compete.</p>
<p>684</p> <p>1 exchange of per minute compensation. But, I mean,</p> <p>2 we have Interconnection Agreements to cover the</p> <p>3 termination of the traffic. What we don't have is</p> <p>4 arrangements in place to cover the origination of</p> <p>5 traffic to ported numbers. And I'm suggesting that</p> <p>6 the approach I described was reciprocal and that</p> <p>7 Western would pay when it originated and the telco</p> <p>8 would pay when it originated.</p> <p>9 MR. SMITH: Just one last one. I</p> <p>10 don't want to be unfair or appear hostile with</p> <p>11 this, but in terms of, you know, what -- Western</p> <p>12 Wireless has another pending Docket, the ETC Docket</p> <p>13 in which Western Wireless is seeking to obtain USAC</p> <p>14 funds for exact -- all the areas we're talking</p> <p>15 about here today. And I guess, you know, one</p> <p>16 question I had following up on something that Jim</p> <p>17 asked yesterday of one of the witnesses, I mean, is</p> <p>18 maximizing USAC funds part of the strategic plan of</p> <p>19 Western Wireless?</p> <p>20 Maybe you don't even know. Is that something</p> <p>21 in the board room or in the planning sessions in</p> <p>22 the company, is that part of a strategic plan of</p> <p>23 the company?</p> <p>24 THE WITNESS: I only know vaguely</p> <p>25 about what our approach is and our attitude is</p>	<p>686</p> <p>1 MR. SMITH: Thanks. That's all I</p> <p>2 had.</p> <p>3 MR. SMITH: Ben.</p> <p>4 MR. WIECZOREK: How about redirect?</p> <p>5 MR. SMITH: Excuse me. I'm sorry.</p> <p>6 I have tell you what I was thinking, Tal. I was</p> <p>7 trying to think -- you know, we were talking about</p> <p>8 the specific costs, but we've already done that.</p> <p>9 MR. COIT: Just a point of</p> <p>10 clarification, and this is something that we talked</p> <p>11 about when we were discussing how the testimony was</p> <p>12 going to proceed, I don't know what he's going to</p> <p>13 cover in his redirect but I'm assuming when it</p> <p>14 comes around the table again to cross that we will</p> <p>15 get some opportunity to talk about the routing that</p> <p>16 was raised by Commissioner questions.</p> <p>17 MR. SMITH: I've always taken the</p> <p>18 position here that none of the attorneys can</p> <p>19 control what the Commissioners ask. I can't even</p> <p>20 do that. And so I think all the parties have to be</p> <p>21 able to responsively examine what they ask.</p> <p>22 MR. COIT: I would appreciate being</p> <p>23 able to ask questions about this.</p> <p>24 MR. SMITH: That's the way we've</p> <p>25 always done it in all the hearings I've been</p>

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1 involved with.  
 2 Mr. Wieczorek.  
 3 MR. WIECZOREK: Thank you.  
 4 REDIRECT EXAMINATION  
 5 BY MR. WIECZOREK:  
 6 **Q** I'd like to clarify a couple of issues. First you were  
 7 asked about the Interstate diagram. Do you have that  
 8 in front of you?  
 9 **A** Yes.  
 10 **Q** That colorful turkey diagram I think you called it. It  
 11 looks like -- that's the multicolored diagram with all  
 12 the lines?  
 13 **A** This one?  
 14 **Q** Yes. At the bottom of that there are some numbers --  
 15 well, did you draft pages 1 and 2 of exhibit I believe  
 16 it's Western Wireless 5?  
 17 **A** I did.  
 18 **Q** And are they representations of some of the existing  
 19 infrastructure as to page 2 and proposed point of  
 20 interconnections that these companies -- or that have  
 21 been proposed on behalf of Interstate and their cost  
 22 structure?  
 23 **A** Yes. Page 1 represents information provided through  
 24 the Petitioner's testimony and discovery, and page 2  
 25 represents similar -- information provided from similar

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1 sources as well as my knowledge of our connections with  
 2 these telephone companies.  
 3 **Q** And at the bottom of that page 2 under what was the  
 4 suggested approach by Western Wireless you have some  
 5 cost numbers. Did you come up with those cost numbers?  
 6 **A** I did.  
 7 **Q** Were they taken from your prefiled testimony,  
 8 Exhibit 5B?  
 9 **A** Yes, they are.  
 10 **Q** Okay.  
 11 MR. WIECZOREK: I'd move for the  
 12 admission of Exhibit 5 now.  
 13 MR. SMITH: Any objection?  
 14 MR. WIECZOREK: It's the  
 15 Interstate --  
 16 MR. SMITH: It's the peacock and  
 17 the --  
 18 MR. DICKENS: Yes. I think this  
 19 just falls in the same category as the other  
 20 documents that weren't filed as part of their  
 21 direct case.  
 22 MR. SMITH: Overruled. I'm going to  
 23 admit Exhibit 5. I think it's just an illustration  
 24 of --  
 25 COMMISSIONER BURG: That's both

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1 pages now?  
 2 MR. SMITH: Both pages. I bounced  
 3 it the other day because those numbers at the  
 4 bottom hadn't been -- no foundation had been laid  
 5 for those.  
 6 **Q** Let's go back to what's been put into evidence as  
 7 Western Wireless Exhibit 9, which is your colored sheet  
 8 that we provided today with all the various cost  
 9 scenarios that have been given.  
 10 Just for clarification on some of the  
 11 questions that you were just asked, at the very bottom  
 12 of the page you have LNP costs per line per month  
 13 including and excluding transport; correct?  
 14 **A** Correct.  
 15 **Q** And going to what is the fifth column over and going  
 16 down to the bottom, you have a 69 cent cost item?  
 17 **A** Yes.  
 18 **Q** Okay. And that would include the cost to do LNP and  
 19 all taxes and excise taxes that would be put on that  
 20 cost based on if Brookings provided LNP and had the  
 21 number of ports it projected; correct?  
 22 **A** That's correct.  
 23 **Q** Actually the last column the number is slightly higher  
 24 than 96 cents. Mr. Burg talked about if you include  
 25 transport. Why is that higher than the previous

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1 number?  
 2 **A** Well, the difference between those two columns is that  
 3 the right-most column reflects Western's forecast of  
 4 port activity, and the column preceding it forecasts  
 5 the -- uses the Petitioner's forecast of ported  
 6 activity.  
 7 **Q** The port activity shown at the very bottom of that last  
 8 column, 496, is that just Western's port activity?  
 9 **A** That's actually port activity for all intermodal ports  
 10 forecasted for the year.  
 11 **Q** So for all CMRS carriers in that area?  
 12 **A** Yes.  
 13 **Q** And Mr. Dickens asked you a question. I want to make a  
 14 clarification here. We've been talking about  
 15 Interstate that's on the second page of Exhibit 9.  
 16 **A** Before you do that, just let me clarify how that port  
 17 number was derived.  
 18 **Q** Sure.  
 19 **A** The assumption was made that Western Wireless has  
 20 approximately a 45 percent market share in most of  
 21 these areas, and so if you wanted to get to just  
 22 Western Wireless's port forecast, it would be  
 23 45 percent of that number.  
 24 **Q** And I believe Mr. Dickens showed you what's been  
 25 entered into evidence by -- as part of Mr. Watkins'



<p style="text-align: right;">691</p> <p>1 testimony, and that shows port projections just for</p> <p>2 Western Wireless.</p> <p>3 That would be the attachment to Exhibit 1 of</p> <p>4 Mr. Watkins' testimony; correct?</p> <p>5 A That's right. Those just reflect what Western Wireless</p> <p>6 expects to obtain in ports from these carriers.</p> <p>7 Q So you would expect if local number portability was</p> <p>8 provided by these carriers that there would actually be</p> <p>9 far more ports than just reflected on that exhibit;</p> <p>10 correct?</p> <p>11 A As much as we'd like to get them all, we just extended</p> <p>12 our wireless market share and assumed that we would get</p> <p>13 our per rate share of intermodal ports in these areas</p> <p>14 so that total ports would be higher in every case than</p> <p>15 Western's share of the ports.</p> <p>16 Q There was also a question, and I believe it was by</p> <p>17 Commissioner Burg, over the benefit of cellular service</p> <p>18 or the ability to port in the rural communities. I'm</p> <p>19 going to mark an exhibit and ask you to identify it.</p> <p>20 (Exhibit WWC 13 is marked for identification)</p> <p>21 Q Can you identify what has been marked as Exhibit</p> <p>22 No. 13?</p> <p>23 A This is a recently released study, 2004 Rural Youth</p> <p>24 Telecommunications Survey, that was sponsored by the</p> <p>25 NTCA and the Foundation For Rural Service.</p>	<p style="text-align: right;">693</p> <p>1 the bottom of --</p> <p>2 A Yes.</p> <p>3 Q You see at the top where it says Voice Still King?</p> <p>4 A Yes.</p> <p>5 Q And then it goes on to talk about the increase in the</p> <p>6 use of text messaging. Does Western Wireless provide</p> <p>7 test messaging?</p> <p>8 A Yes, we do.</p> <p>9 Q Do you know whether any of the rural LECs provide text</p> <p>10 messaging?</p> <p>11 A I am not aware if they do.</p> <p>12 Q Is this one of the benefits when you talk about the</p> <p>13 package that's offered by the service where it's the</p> <p>14 consumer's choice that you would include?</p> <p>15 A Absolutely. This and your mobile access to the</p> <p>16 Internet, you know, other more traditional voice mail</p> <p>17 products. But, yeah, it's all part of the package that</p> <p>18 we present as our valued proposition.</p> <p>19 Q Then I want you to turn to -- there were some questions</p> <p>20 on Exhibit 11, which is the survey of rural customers</p> <p>21 by Western Wireless.</p> <p>22 A Yes.</p> <p>23 Q There was a question concerning chart 1 and the number</p> <p>24 of people that might be interested in replacing the</p> <p>25 landline phone. Out of the survey how many were</p>
<p style="text-align: right;">692</p> <p>1 Q And what is the NTCA?</p> <p>2 A National Telecommunications Cooperative Association.</p> <p>3 Q And are you familiar with the types of companies that</p> <p>4 are members of that association?</p> <p>5 A Well, I would suspect some of the -- many of the</p> <p>6 companies here today as Petitioners are members of the</p> <p>7 NTCA, but these are generally rural telephone companies</p> <p>8 that are designed as cooperatives.</p> <p>9 Q Okay. Would you turn to what is page 1 of the actual</p> <p>10 survey after the cover page. Are you there?</p> <p>11 A Yeah.</p> <p>12 Q And if you go down to the Confronting The Rural Brain</p> <p>13 Drain section?</p> <p>14 A Uh-huh.</p> <p>15 Q Could you read that last sentence, please.</p> <p>16 A "The ability to offer the same state-of-the-art</p> <p>17 telecommunications services as are available in</p> <p>18 nonrural areas could play a significant role in</p> <p>19 increasing the attractiveness and livability of rural</p> <p>20 communities."</p> <p>21 Q Is LNP one of those state-of-the-art telecommunication</p> <p>22 services?</p> <p>23 A LNP is one of the services that are today available in</p> <p>24 urban areas and not available in rural areas, yes.</p> <p>25 Q Could you turn to page 3 of that document then? 3 on</p>	<p style="text-align: right;">694</p> <p>1 undecided whether they would do that?</p> <p>2 A 25 percent were undecided.</p> <p>3 Q What impact do you believe would giving the option for</p> <p>4 people to take their local number with them to a</p> <p>5 wireless service have on those 25 percent?</p> <p>6 A Again, it's something that when the survey was</p> <p>7 conducted it wasn't available to most of these rural</p> <p>8 consumers. You know, I would think that that would --</p> <p>9 knowing that they could do that would move some of</p> <p>10 those 25 percent into the first column, which is</p> <p>11 16 percent, which is -- again, this survey was done</p> <p>12 subsequent to when we had submitted our forecasts for</p> <p>13 porting volumes, but this survey does serve to</p> <p>14 validate, I think, the forecast that we have, which is</p> <p>15 over a period of five years we expect to see a</p> <p>16 15 percent intermodal migration.</p> <p>17 This one happens to say 16 percent. And if</p> <p>18 you were to assume that that 25 percent of unsure</p> <p>19 customers became aware of number portability, I would</p> <p>20 think that some of those would like the opportunity to</p> <p>21 use their cell phone as their only phone.</p> <p>22 Q There was -- I'm going to go way back to this morning</p> <p>23 and try to cover some of the issues raised in the</p> <p>24 cross-examination. There was some cross-examination</p> <p>25 about whether the Interconnection Agreement being</p>

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1 discussed provided for two-way trunks with Qwest.  
 2 Do you remember that?  
 3 A Yes, I do.  
 4 Q Okay. Was that part of the negotiations?  
 5 A Yes. Actually the final agreement ended up with  
 6 language that allows -- provides for Western Wireless  
 7 to use the tandem trunking, but at the request of the  
 8 LECs we removed the language that allowed them -- or  
 9 that permitted them to use indirect routing.  
 10 MR. DICKENS: Excuse me. I'm sorry.  
 11 I would object and move to strike the part about  
 12 Mr. Williams' answer about what the negotiating  
 13 positions of the parties were before the agreement  
 14 was signed. I think we've established that that is  
 15 not relevant, pursuant to the ruling you made  
 16 Monday.  
 17 MR. WIECZOREK: Well, the  
 18 cross-examination crossed him on the fact it wasn't  
 19 in the agreement and implied that Western Wireless  
 20 didn't want it when they were negotiating the  
 21 agreement. So I'm just clarifying that Western  
 22 Wireless suggested that in the agreement, and it  
 23 wasn't them -- it wasn't Western Wireless that took  
 24 it out.  
 25 MR. SMITH: Since we're not -- I

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1 don't think we're talking about what the -- what  
 2 any rights or obligations are under the agreement,  
 3 I'm going to allow it.  
 4 Q Did you complete your answer before the objection?  
 5 A Yes, I did.  
 6 Q Thank you. There was a reference that you made at one  
 7 point in your testimony concerning that Qwest could  
 8 provide the two-way trunks within three weeks.  
 9 Have you had direct discussions with Qwest  
 10 regarding that in South Dakota?  
 11 A No, I have not. My source for that really was  
 12 two-fold. One was my familiarity with Qwest's  
 13 provisioning intervals for those kind of circuits, but  
 14 more significantly it was a statement that Qwest made  
 15 in testimony or comments made in Minnesota for  
 16 implementing the very same circumstances we're talking  
 17 about here.  
 18 Q Okay.  
 19 MR. WIECZOREK: I was going to mark  
 20 the Qwest comments and with this proviso, that I am  
 21 not marking them so I can argue later that this  
 22 proves that this can be done in South Dakota. I'm  
 23 marking them for the reference in support for what  
 24 he's testified to, and just to show that there are  
 25 potentially other available options.

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1 MR. SMITH: What is that again?  
 2 MR. WIECZOREK: It's the Qwest  
 3 comments filed with the Minnesota Commission. I'll  
 4 mark it as Exhibit 14.  
 5 MR. SMITH: Does this have a number?  
 6 MR. WIECZOREK: That is 13.  
 7 (Exhibit WWC 14 is marked for identification)  
 8 MS. POLLMAN ROGERS: Excuse me a  
 9 minute. Is there a chance we could have a moment  
 10 to review this for the purposes of potential  
 11 objection prior to allowing questions on it? I  
 12 have not seen this before.  
 13 MR. SMITH: We're going to recess  
 14 for -- we eventually have to take a break. How  
 15 long do you need to review it?  
 16 MR. DICKENS: It looks to be  
 17 about -- it looks to be about 50 pages in total, 35  
 18 to 50 pages so 15 minutes.  
 19 CHAIRMAN SAHR: That's fine.  
 20 MR. SMITH: We'll take a 15-minute  
 21 break.  
 22 (A short recess is taken)  
 23 MR. SMITH: We're back on the  
 24 record. Mr. Wieczorek, do you want to proceed?  
 25 MR. WIECZOREK: Yes. Thank you,

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1 Mr. Smith.  
 2 Q (MR. WIECZOREK) What has been marked as Exhibit 14,  
 3 are you familiar with that document?  
 4 A I am.  
 5 Q And can you for the record state what that document is?  
 6 A These are the comments of Qwest's regarding a MIC  
 7 petition in Minnesota. The MIC petition is for  
 8 approximately a 67-day suspension of number portability  
 9 obligations so that they can implement the proposal by  
 10 MIC, which is a tandem routed solution for the  
 11 transport of calls to ported numbers. And these were  
 12 Qwest's comments on that petition.  
 13 Q You're on that service list; correct?  
 14 A I am.  
 15 Q Is that a true and correct copy of Qwest's comments,  
 16 Exhibit 14?  
 17 A Yes. It appears to be.  
 18 Q On the second page of the actual comments after the  
 19 certificate of service about halfway down you -- let me  
 20 preface it this way. You made a statement earlier, and  
 21 I don't want to leave the false impression that you've  
 22 talked to Qwest about implementing something similar in  
 23 South Dakota.  
 24 Have you talked to Qwest about implementing  
 25 something similar in South Dakota?

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1 A We have not.

2 Q But you mentioned a three-week time frame. Can you

3 explain to the Commission how you reference that

4 three-week time frame?

5 A Well, Qwest has in their comments here proposed that

6 they could accomplish a three-week implementation that

7 included the conversion of existing one-way trunk

8 groups to two-way trunk groups so that they could

9 transit land to mobile calls to ported numbers.

10 Q And in the Minnesota filing how long did they project

11 it would take and for how many trunks?

12 A I think there were 106 trunks to approximately 40

13 telephone companies, and Qwest said that they would be

14 able to implement that within three weeks of a signed

15 agreement.

16 Q Also attached to those comments are some exhibits.

17 Could I ask you to turn to the first exhibit?

18 A Yes.

19 Q Well, is this exhibit similar to the routing proposal

20 that Western Wireless has made, which is page 2 of

21 Western Wireless Exhibit 5?

22 A Yeah. This exhibit is similar to Western Wireless's

23 routing proposal, similar to the diagram there. What

24 they have included -- what Qwest has included is a

25 reference to the ONVOY tandem which -- and Qwest

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1 included this to demonstrate that they weren't the only

2 option for this kind of service in Minnesota. The

3 ONVOY tandem and ONVOY's role in Minnesota is similar

4 to what SDN provides here in South Dakota.

5 MR. WIECZOREK: Commission, I'd

6 actually move for admission of Western Wireless 13

7 and 14 at this time.

8 MR. SMITH: Ben.

9 MR. DICKENS: Thank you. I have no

10 objection to the content of either of these

11 exhibits. I do have a comment, though, about what

12 I think is a troubling trend in the process, and

13 that is that we keep getting documents on direct as

14 part of their direct case that I think could have

15 been filed earlier.

16 And so I don't have an objection to either

17 exhibit, but I would like the Commission to

18 remember when it's our turn next week in case we

19 find it necessary to supplement our case with more

20 documents that what was sauce for the goose should

21 be sauce for the gander. Thank you.

22 MR. SMITH: I think that's fair.

23 MR. WIECZOREK: I would ask whether

24 I'm the goose or the gander.

25 MR. SMITH: I'm not sure.

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1 MR. WIECZOREK: That troubles me.

2 MR. DICKENS: I didn't know myself

3 when I said it.

4 MR. SMITH: With that in mind, I'll

5 admit the exhibits. Does anyone else have an

6 objection?

7 MR. COIT: No objection.

8 MR. SMITH: I'll admit WWC 13 and

9 14.

10 Q I want to go back to some of the other discussion. I

11 believe this was on cross by Mr. Coit. He asked

12 whether -- and I'm not sure that he used the term

13 willing or whether you were providing dipping or LNP

14 queries for type 1 numbers. Do you remember that?

15 A I do remember him asking me --

16 MR. COIT: Excuse me. I don't think

17 I referenced that in relation to any type 1

18 interconnects. I just referenced it in regards to

19 queries in general.

20 MR. WIECZOREK: Okay.

21 Q As to queries in general.

22 MR. WIECZOREK: Thank you, Mr. Coit.

23 Q Western Wireless isn't in the business of being a

24 default LNP query organization, is it?

25 A Absolutely not.

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1 Q In what cases has Western Wireless stepped in to try to

2 fulfill that type of role?

3 A Well, we've been -- since May 24 when rural portability

4 was implemented we've been -- we've been porting out

5 numbers to other wireless carriers. We have still been

6 receiving traffic calls to numbers that are no longer

7 part of our network. And in most cases we did not get

8 any information from telephone companies that they were

9 going to be misrouting this traffic. The information

10 came from customer -- wireline customer complaints that

11 were then forwarded to our wireless consumers who

12 then -- or former wireless consumers who are now

13 somebody else's who said I can't get calls to my number

14 anymore and it turned out that this traffic again was

15 being misrouted.

16 Since the call was no longer active on our

17 switch, they were getting inactive -- you know, the

18 number is no longer in service. We found that the

19 source of the traffic was independent telephone

20 companies who weren't performing their obligations as

21 an originating carrier and performing N-1 queries so

22 that they could identify where to route the call to.

23 In every case where we faced this scenario

24 rather than continue to have customers experience calls

25 that won't complete -- these are landline customers',

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1 telco customers' calls who won't complete -- we have  
2 gone through the process of implementing translations  
3 on each one of these incoming trunk groups where this  
4 problem has occurred, and we've had to implement those  
5 in such a way where we have to do a query for all the  
6 traffic coming across that trunk group to determine  
7 which components of that traffic have been misrouted  
8 and need to be rerouted to the proper carrier.

9 We're doing this, first of all, on ad hoc and  
10 emergency basis. It is not a business we are in. It  
11 is not a business we are required to perform. And we  
12 find ourselves trying to cover for carriers that aren't  
13 meeting their obligations. It's happening here in  
14 South Dakota as well as many other states.

15 **Q** Then there was a question -- and I'm going to put up  
16 the old Interstate chart. There was a question by  
17 Mr. Dickens -- and before we look at the chart I'd like  
18 you to look at Exhibit 9, which is your multicolored  
19 chart, and let's just look at Interstate since we have  
20 a diagram to follow.

21 **A** Okay.

22 **Q** There was a question by Mr. Dickens whether Western  
23 Wireless would be willing to pay transport costs for  
24 porting the numbers, and do you recall how you answered  
25 that question?

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1 **A** No.

2 **Q** I believe you confirmed that Western Wireless would be  
3 willing to do that as part of getting ports and phone  
4 service.

5 **A** Yes.

6 **Q** Okay. And the clarification I want to make is if you  
7 look at Interstate's monthly recurring transport costs  
8 as projected by Interstate, there are 157,000, and  
9 that's not the number Western Wireless is saying it's  
10 going to pay, is it?

11 **A** Absolutely not. I think if we were ordered to pay this  
12 transport -- and, again, this is under consideration  
13 with the FCC right now -- the number we would be paying  
14 would be the -- or we would pay at that point would be  
15 the transit we have suggested in our cost study.

16 **Q** Okay. So the number that you're talking about is  
17 the -- on your chart is the \$118 number or that portion  
18 of the actual transport-related ports to you?

19 **A** \$118 on the basis of 24 ports per year or 2,228 on the  
20 basis of 453 ports per year.

21 **Q** That would be under a system as represented by  
22 Exhibit 5B, which is the poster up now; correct?

23 **A** Yes. Tandem routing option.

24 **Q** That's not on the peacock system, as I believe  
25 Mr. Smith has called the other diagram?

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1 **A** Not on the dedicated route system, correct.

2 **Q** And, finally, there was a question of whether you'd do  
3 similar type of arrangements with the other Petitioners  
4 as you did with James Valley, and you stated there it  
5 depends on the system and it depends on what's there.

6 And let me just ask you, by way of example,  
7 would a similar type system like what you've done with  
8 James Valley work with somebody like Interstate?

9 **A** Well, actually with Interstate we have another unique  
10 opportunity. With Interstate we already have direct  
11 connections, three of them, I believe, with Interstate.  
12 So there's no need for anybody to incur additional  
13 transport. We could utilize the existing connections  
14 and achieve the same thing we're achieving with  
15 James Valley.

16 **Q** Okay. So it would be --

17 **A** There would be no transport in that circumstance paid  
18 to any third party.

19 MR. WIECZOREK: That's all I have.

20 MR. SMITH: Thank you. Mr. Dickens.

21 MR. DICKENS: Thank you.

22 RECROSS-EXAMINATION

23 BY MR. DICKENS:

24 **Q** Mr. Williams, going back to the subject that you were  
25 discussing with Mr. Wieczorek or some questions you

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1 were answering of Mr. Wieczorek a moment ago regarding  
2 the subject of what you say is a failure of my client's  
3 obligations to perform their proper routing.

4 **A** Yes.

5 **Q** You're not contending that you didn't receive notice  
6 from my client with whom you have direct connections  
7 that they were unable to do those dips and requesting  
8 you to continue to help them out in that regard?  
9 You're not contending that, are you?

10 **A** After the fact we did receive notice, and I've  
11 responded to that notice.

12 **Q** About a month later, wasn't it?

13 **A** Our response was a month later in terms of written  
14 response. Our response in terms of tending to the call  
15 routing needs was as quickly as we could get to it.

16 **Q** Let me ask you a question about the -- if I can find  
17 the right diagram. You talked a bit about this with  
18 your counsel and some of the Commissioners today. I  
19 think Commissioner Hanson asked you if the -- if my  
20 clients would have to pay anymore when one of your  
21 customers ported their number to your phone, to one of  
22 your phones, and the routing arrangement changed.

23 I thought initially you said no. I may be  
24 mistaken. But just to make sure that the record is  
25 clear, today if this phone carries a number that's not

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1 associated with the local calling area, it goes over  
 2 SDN facilities and gets handed off to the IXCs and  
 3 comes back via IXC trunks and handed off to you and our  
 4 clients get access on that --  
 5 A Originating access.  
 6 Q Okay. When the call gets ported to you our clients  
 7 lose the access. Under your proposal they would pay  
 8 Qwest some amount to take the call up to the  
 9 Sioux Falls switch and hand it to your switch. It  
 10 would come back, and since it would be a local number,  
 11 wouldn't they pay you reciprocal compensation on that  
 12 too?  
 13 A I mean, that's correct. You can't collect access to  
 14 calls from a customer that's not yours.  
 15 Q Right. I'm just trying to clarify actually what's  
 16 happening.  
 17 A Right.  
 18 Q So our client would lose access?  
 19 A Lose the customer.  
 20 Q Lose the customer --  
 21 A Therefore, they wouldn't collect any access on calls.  
 22 Q Right. They would pay Qwest and they would pay you  
 23 recip. comp for terminating the call?  
 24 A Yes. They would pay us recip. comp on traffic that's  
 25 originated on their network and terminated on ours, and

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1 they would use -- if they use Qwest, they would use an  
 2 efficient means for delivering the local traffic.  
 3 Q I think it might have been Chairman Sahr that asked you  
 4 if you were willing to participate in a work group to  
 5 discuss various options for implementing LNP. Do I  
 6 recall correctly that you said no?  
 7 A I didn't mean to say no. I think I suggested that -- I  
 8 think Chairman Sahr suggested that a work group might  
 9 be a way to facilitate progress on this, and he sought  
 10 my opinion on whether that would be a means, and I  
 11 suggested that I thought progress would be better made  
 12 by establishing a firm date on which things needed to  
 13 be implemented and that the business dynamics would  
 14 lead to whatever dialogue was necessary to get  
 15 implementation to occur.  
 16 Q But if the Commission asked you to participate in a  
 17 work group, you would?  
 18 A We would.  
 19 Q Okay. I want to go back to the City of Faith example  
 20 that we talked about earlier, and I think you had some  
 21 exchange with the Commissioners about the City of  
 22 Faith. And my recollection is you indicated that you  
 23 thought it would be okay for the City of Faith and a  
 24 couple of other carriers to delay implementation until  
 25 March of '05 more or less?

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1 A Yeah.  
 2 Q Okay. I also recall that you were projecting zero  
 3 ports for five years for the City of Faith. Is that  
 4 correct?  
 5 A Projecting zero ports, yes, from Western Wireless.  
 6 Q So what's the public benefit there of requiring Faith  
 7 to go LNP?  
 8 A Well, although Western Wireless may not have an  
 9 interest in -- or may not expect to be porting from  
 10 Faith, there may be other carriers that would expect to  
 11 port from Faith.  
 12 Q Do you think that would be a large number of ports, a  
 13 couple a year?  
 14 A Obviously our projections would show that, you know,  
 15 we're not expecting to port from Faith.  
 16 Q Have you examined what your coverage footprint looks  
 17 like in Valley?  
 18 A I have in the past, yes.  
 19 Q Mr. Oleson, who is Valley's manager, who I think is  
 20 scheduled to testify next, would it surprise you if he  
 21 said you covered about 15 percent of his service area  
 22 with your footprint?  
 23 A Yes. That would surprise me.  
 24 Q What do you think it is?  
 25 A I'm going to say north of 50 percent.

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1 Q Okay. Well, let me try it a little bit differently.  
 2 There are some communities that are completely unserved  
 3 by your signal in South Dakota in the Petitioner's  
 4 areas, aren't there?  
 5 A I know we have some areas that aren't served by our  
 6 signal in South Dakota.  
 7 Q Would you accept, subject to check, that Blunt and  
 8 Venture's service area is such a city?  
 9 A We could use it as a hypothetical, if you'd like.  
 10 Q All right. Hypothetically would you assume that  
 11 there's no cellular coverage in Blunt for the purposes  
 12 of my question?  
 13 A Well, if Blunt is -- I don't know if there is or isn't  
 14 service coverage in Blunt.  
 15 Q At this point we're dealing in hypotheticals. If you  
 16 would just accept my --  
 17 A If the assumption is there's no service --  
 18 Q If there's no service in Blunt, what's the public  
 19 benefit of requiring Venture to go LNP? What would it  
 20 be? What would the public benefit be of requiring  
 21 Venture to go LNP? I'm speaking to those customers  
 22 that live in Blunt.  
 23 A Those customers that live in Blunt there might not be a  
 24 benefit if they don't have coverage of another service  
 25 provider. But our service area and our coverage isn't

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1 a static thing. We are always upgrading our network  
 2 and expanding our coverage so it's likely some day, and  
 3 I don't know when since we're talking about  
 4 hypothetical, that, you know, coverage circumstances  
 5 will change.  
 6 **Q** Earlier today there was an exchange about your  
 7 surcharge that you charge your customers, and I believe  
 8 that you indicated it included several items such as  
 9 CALEA, LNP cost, and number pooling costs, among  
 10 others?  
 11 **A** Correct.  
 12 **Q** Do I correctly recall that was about \$1.70? Is that  
 13 what you said?  
 14 **A** \$1.70.  
 15 **Q** Can you tell us what component of that 1.70 is  
 16 associated with LNP cost recovery?  
 17 **A** I think I said earlier, it was more than -- you know,  
 18 more than 50 percent but, you know, 50 to 70 percent  
 19 maybe would be the range. But that's the best I could  
 20 estimate.  
 21 **Q** Has number pooling been implemented in South Dakota?  
 22 **A** Not in South Dakota, although I know we are -- well, I  
 23 mean, we are donating blocks back to the pooling  
 24 administrator in all the areas where we have blocks to  
 25 donate. That's an obligation of all carriers that have

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1 implemented number portability.  
 2 **Q** Let me talk to you about your proposal to utilize the  
 3 Qwest facilities to deliver calls to your network.  
 4 Qwest is not a party to this proceeding, is it?  
 5 **A** No.  
 6 **Q** Do you think the Commission can order Qwest to transit  
 7 the traffic if it's not a party here?  
 8 **A** I think Qwest is already obligated to transit the  
 9 traffic. It's just a matter of going through the  
 10 administrative process of causing it to happen.  
 11 **Q** Do you think Qwest ought to be a part of that work  
 12 group if the Commission orders one?  
 13 **A** Qwest I think would find that work group very  
 14 interesting.  
 15 **Q** They're not too excited about offering service on a  
 16 TELRIC basis in Minnesota, are they?  
 17 **A** Not at the TELRIC level that the MIC companies are  
 18 seeking, which is less than what Western currently pays  
 19 in Minnesota.  
 20 MR. DICKENS: One second.  
 21 **Q** I just have a last question or two about Qwest. Did  
 22 Qwest present you with a proposal, or did you present  
 23 Qwest with a proposal to use their facilities for the  
 24 service we've been talking about today?  
 25 **A** Qwest's transit services are listed both in their

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1 tariff and in their SGAT and on their website.  
 2 **Q** Did you talk with them or exchange correspondence about  
 3 this idea?  
 4 **A** No.  
 5 **Q** Okay.  
 6 MR. DICKENS: Those are all the  
 7 questions we have. Thank you.  
 8 MR. SMITH: Mr. Coit.  
 9 MR. COIT: Yes. I have a few.  
 10 RE CROSS-EXAMINATION  
 11 BY MR. COIT:  
 12 **Q** I can't remember. This is an exhibit to your  
 13 testimony; is that right, Mr. Williams?  
 14 **A** It is an exhibit to my original prefiled testimony --  
 15 MR. WIECZOREK: 6 to the prefiled.  
 16 **Q** So it's Exhibit 6, this particular diagram or all three  
 17 of them?  
 18 MR. WIECZOREK: All three.  
 19 **A** Part of Exhibit 1, but it was referenced as Exhibit 6  
 20 in the prefiled.  
 21 **Q** In regards to Exhibit 6, the post-port tandem routing  
 22 diagram, I believe you testified earlier in response to  
 23 a question from a Commissioner that you didn't see  
 24 where -- let's say, for example, this is Kennebec.  
 25 **A** Okay.

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1 **Q** That you didn't see where Kennebec's responsibility in  
 2 terms of being an originating carrier and taking a call  
 3 from one of its customers to a wireless customer on  
 4 your network was any different than the responsibility  
 5 that you would incur carrying this call from this  
 6 wireless user back to a landline customer; is that  
 7 correct?  
 8 **A** How I characterized it was the responsibilities for  
 9 local calls were not any different, correct.  
 10 **Q** So the responsibility for local calls were not any  
 11 different. Now if we were to look at Western  
 12 Wireless's service area in relationship to this  
 13 diagram, you could really draw a circle around this  
 14 cloud, couldn't you?  
 15 **A** Well, I mean, the green is actually representative of  
 16 the Western Wireless service area. I mean, it's a  
 17 conceptual diagram, but, yeah, the wireless service  
 18 area is shown there to be larger than the Kennebec --  
 19 **Q** The green cloud on this diagram is representative for  
 20 the purposes of this as being your service area.  
 21 **A** Correct.  
 22 **Q** And this checkered blue and white area would be the  
 23 Kennebec service area, for example?  
 24 **A** For example.  
 25 **Q** Now when you take a call from this -- a local call from

715

1 this wireless end-user say to a Kennebec landline  
 2 subscriber you're originating and terminating that call  
 3 within your service area; correct?  
 4 A That's correct.  
 5 Q And is that what Kennebec is doing when it takes a call  
 6 from its landline customer to the LATA tandem?  
 7 A They are originating and -- that call is originating  
 8 and terminating based on the same rate center and we  
 9 have -- and the routing of that call may include  
 10 routing outside of their service area.  
 11 Q So Western Wireless is taking a call from a wireless  
 12 subscriber in its area to a termination point somewhere  
 13 in its own area.  
 14 A Not in all cases, but in some cases. There are places  
 15 where we terminate where traffic is local where we  
 16 don't have service.  
 17 Q But Kennebec would be responsible for taking that local  
 18 call from its area 165 or 180, whatever it is, all the  
 19 way to Sioux Falls? That's your testimony?  
 20 A Whether it goes to Sioux Falls or not, it's  
 21 three-tenths of a cent. That's my testimony.  
 22 Q We've had quite a bit of discussion about direct  
 23 connects, and you had indicated in some of your earlier  
 24 testimony that there may be locations where the volume  
 25 of traffic would justify a direct connection; is that

716

1 correct?  
 2 A That's correct.  
 3 Q And I guess I would ask today how many direct connects  
 4 does Western Wireless have in South Dakota? Do you  
 5 know? Estimate?  
 6 A 20, 25, some of those with Qwest, some of those with  
 7 SDTA members.  
 8 Q Do you know how many with SDTA members?  
 9 A Half of those.  
 10 Q And you also have some requests pending for some direct  
 11 connects, do you not?  
 12 A I believe so.  
 13 Q Now with respect to the James Valley settlement, and we  
 14 don't have any written terms on that, but it's my  
 15 understanding that a part of that agreement is is that  
 16 Western Wireless will be paying for a DS-1 facility  
 17 between Groton and Aberdeen; is that correct?  
 18 A Generally, yeah.  
 19 Q And that facility would be purchased from Northern  
 20 Valley Communications?  
 21 A That's correct.  
 22 Q And that facility then would go from the Groton switch  
 23 to a point of presence that Western Wireless has  
 24 somewhere in Aberdeen?  
 25 A Yes. We're connecting with our point of presence in

717

1 Aberdeen to Northern Valley's point of presence in  
 2 Aberdeen.  
 3 Q Where is your point of presence in Aberdeen?  
 4 A I believe it's at the Qwest central office there.  
 5 Q And it's been represented to you that Northern Valley  
 6 Communications is an affiliate of James Valley, an  
 7 affiliate company?  
 8 A That's my understanding.  
 9 Q And do you know whether Northern Valley Communications  
 10 presently provides any service in Aberdeen?  
 11 A I believe they do.  
 12 Q Local exchange service?  
 13 A I believe they do.  
 14 Q So that's part of their service area?  
 15 A Part of Northern Valley's service area?  
 16 Q Yeah.  
 17 A If they're a CLEC there, it is.  
 18 Q So Western Wireless is meeting up or basically is  
 19 buying a DS-1 facility that extends into Groton from a  
 20 point of presence that it has in Aberdeen; correct?  
 21 A Correct.  
 22 Q Is that accurate?  
 23 A Yeah. We've agreed to pay a certain amount for that  
 24 facility.  
 25 Q But it's you that will pay that, not Northern Valley or

718

1 James Valley.  
 2 A That's right.  
 3 Q Now going to the post-port direct routing diagram  
 4 that's part of your Exhibit 6, now this -- looking at  
 5 this diagram, this line here that just rests below the  
 6 telco rate center end office and in between the LATA  
 7 tandem and the CMRS switch, is that the direct connect  
 8 we're talking about?  
 9 A Yeah. I think -- let me contrast that with what  
 10 James Valley had originally proposed we do. What we  
 11 are installing --  
 12 Q That was not my question. My question is is this the  
 13 direct connect? On this diagram --  
 14 A In functionality it is similar to that, except the  
 15 difference being that it's going to a single  
 16 James Valley office that would be able to receive  
 17 traffic from all of James Valley's exchanges.  
 18 Q Excuse me. Moving off of the James Valley scenario, if  
 19 we look at the other direct connects that are already  
 20 established in South Dakota --  
 21 A Uh-huh.  
 22 Q -- if you were to look at this diagram not as a  
 23 post-port direct routing but to just kind of illustrate  
 24 direct routing, just looking at this bottom piece today  
 25 in terms of how you receive some local traffic, I guess

719

1 my first question would be when you establish a direct  
 2 connect what gets delivered over those direct connect  
 3 facilities to you? What sort of traffic?  
 4 A Well, it depends on which carrier you establish those  
 5 with.  
 6 Q But if you've got like say, for example, Golden West  
 7 over here in the blue and white checkered area and  
 8 you've got to direct connect with them, what sort of  
 9 traffic -- local traffic? Are they going to deliver  
 10 local traffic up that direct connect?  
 11 A Yes. Local traffic.  
 12 Q And when you establish that direct connect you're going  
 13 to purchase some DS-1 facilities from Golden West to  
 14 basically get to this rate center, whether that's a  
 15 host or some sort of local tandem, whatever. You're  
 16 going to purchase DS-1 facilities to that office;  
 17 correct?  
 18 A The office or tandem or whatever it might be.  
 19 Q So when you buy that -- generally if you look at those  
 20 interconnects that you have today, those direct  
 21 interconnects when you're connecting up with a LEC,  
 22 where does that span go? From the ILEC end office  
 23 where does it go? What are you buying access to  
 24 basically?  
 25 A Well, generally buying access to terminate traffic to

720

1 the telco.  
 2 Q But where does the span end? If you're buying a direct  
 3 connect --  
 4 A It will end at typically one of our points of  
 5 interconnection.  
 6 Q Well, your actual point of interconnection would be in  
 7 the rate center; correct?  
 8 A Well --  
 9 Q If you buy the facilities --  
 10 A Some carriers that's the case, yes.  
 11 Q Some carriers it is. Some it isn't. You'll have a  
 12 point of interconnection somewhere else --  
 13 A Right.  
 14 Q -- right? But typically would you say, if not in all  
 15 cases, that that point of interconnection is going to  
 16 be within the rural LECs, the local exchange carrier's  
 17 service area?  
 18 A Yes.  
 19 Q And then let's say you've got a border here and this is  
 20 the service area so your point of interconnect is  
 21 actually here in this mid-span.  
 22 A Some circumstances it is.  
 23 Q And you may have Qwest providing this, or you may have  
 24 SDN providing this; correct?  
 25 A Or it may be on our own network, yes.

721

1 Q So up to this point of interconnect the LEC doesn't pay  
 2 any of that, does it? For that dedicated facility the  
 3 LEC doesn't pay for any portion of that, does it?  
 4 A Well, we split those facilities on a shared traffic  
 5 basis.  
 6 Q But that's just for this piece of facility that the LEC  
 7 is providing you; correct?  
 8 A Well, we pay -- we split the facility costs and, again,  
 9 it's different with different LECs, but --  
 10 Q You're buying a DS-1 facility, and you're purchasing  
 11 facilities from some -- probably an interexchange  
 12 carrier or you've got them yourself and that's all the  
 13 way to this point of interconnect if we assume there's  
 14 a meet point at the boundary of the ILEC and then  
 15 you're buying a DS-1 facility from the LEC. This is  
 16 the facility that's shared, the facility from the LEC  
 17 to the point of interconnect; correct?  
 18 A That's correct.  
 19 Q So when we go to this post-port routing diagram and you  
 20 require the ILEC to pay for this transport all the way  
 21 into the LATA tandem, that's different than a direct  
 22 connect scenario, isn't it, in terms of the  
 23 responsibility of that LEC?  
 24 A When there's no direct connection, there is a different  
 25 routing responsibility for both carriers.

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1 Q There was a question asked on redirect regarding the  
 2 Interconnection Agreement and the fact that -- there  
 3 was reference to a proposal within the Interconnection  
 4 Agreement negotiations to convert those facilities from  
 5 one-way to two-way or at least propose them as  
 6 bidirectional facilities within the interconnection  
 7 negotiations. Do you recall that?  
 8 A No. I do recall a question about land to mobile  
 9 routing through a tandem, but that didn't cover those  
 10 topics.  
 11 Q So you didn't give some indication that during the  
 12 interconnection negotiations you had proposed as part  
 13 of those interconnection negotiations that the  
 14 facilities should be two-way?  
 15 A The proposal as part of the negotiations was for both  
 16 parties to avail themselves of tandem routed calling.  
 17 Q And then with respect to your situation at -- well, I  
 18 guess I would first start by asking, do you recall when  
 19 we -- when you as Western Wireless commenced those  
 20 negotiations with the South Dakota industry on the  
 21 inter --  
 22 A Certainly long before we were worried about LNP. 2002,  
 23 could it have been? The summer of 2002 maybe.  
 24 Q And when that was proposed within the agreement that  
 25 you initially presented to the independent LECs was it



723

1 proposed as an option?

2 A Well, it would be our preferred approach to have both

3 parties have flexibility to use tandem routed calling.

4 And it was proposed in that way.

5 Q And at that particular point in time you as a company

6 were already using Qwest to terminate your wireless to

7 landline traffic; correct?

8 A Yes. And we still use them today.

9 Q Okay. And the ILECs, in terms of delivering any local

10 traffic to Western Wireless were not doing that; is

11 that correct?

12 A That's correct.

13 Q They were utilizing direct connect facilities; is that

14 correct, for local traffic?

15 A When they were available, yeah, or EAS routes in some

16 cases.

17 Q And wouldn't you say that there's kind of an inherent

18 conflict, I guess, between negotiating an agreement

19 that deals with taking direct connect facilities to

20 some point of interconnection within the service area

21 of a rural LEC versus this two-way Qwest tandem

22 proposal that you've mentioned?

23 A From my perspective I don't see that there would be a

24 conflict. They could be complimentary. Western's

25 intent is to find the most economical means to exchange

724

1 traffic.

2 Q Would you say that language regarding the establishment

3 of two-way facilities is consistent with the language

4 that's in the current agreements dealing with

5 establishment of points of interconnection within the

6 exchange local calling areas of the ILECs?

7 A What's in the agreement is the exchange of traffic when

8 Western Wireless has NPA NXXs that are assigned to the

9 rate centers.

10 Q Just a couple more. You referenced about additional

11 transport costs and no additional transport costs being

12 imposed on the ILECs. And I can't recall specifically

13 under what circumstances that was referenced, but would

14 you agree that if you move the point of interconnection

15 between Western Wireless and the ILECs or you reduce

16 the number of points of interconnection, that that

17 could affect the ILEC's transport -- the local

18 transport within the ILEC network in terms of how far

19 they have to take the traffic or over how many route

20 miles they have to take the traffic?

21 A I would agree. And, in fact, the FCC identified that

22 in their intermodal order in November and thought it

23 was significant enough to draw a distinction between

24 the routing of the traffic and any rating and

25 compensation issues associated with that traffic.

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1 Q So not only can moving the POI affect, you know,

2 responsibilities to some LATA tandem somewhere, it can

3 also affect transport costs within the ILEC's own

4 network on the other side of the host or the tandem

5 that's connected to it; correct?

6 A You know, at some levels of traffic that would be the

7 case.

8 Q And if that's the case, then reciprocal transport and

9 termination rates that are negotiated may have to be

10 adjusted?

11 A Well, if --

12 MR. WIECZOREK: I'm going to object

13 as it's beyond the scope of any questions asked on

14 direct or cross after Mr. Coit had his original

15 cross.

16 MR. SMITH: Overruled.

17 A Ask that --

18 Q Do you need me to repeat it?

19 MR. COIT: Maybe you want to read

20 it back, Cheri.

21 (Reporter reads back last question)

22 A I think the agreements accommodate a change of law

23 provision and if -- you know, I mean, you would have

24 to -- the companies would have to speak with counsel

25 about whether LNP constitutes a change of law or

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1 whatever other accommodations would need to be foreseen

2 in those agreements.

3 Q There was some questions by the Commissioners

4 concerning the benefit of LNP and individual company

5 service areas. I'm going to try to make this question

6 understandable, but if you need me to repeat it, please

7 do so.

8 Would you agree that the level of

9 significance that a particular customer may give to the

10 ability to port their number from a wireline to a

11 wireless phone may be less if the signal quality within

12 that consumer's area, particularly at that consumer's

13 residence, is less than adequate?

14 A I think every consumer will make -- I mean, will make

15 that decision for themselves. We don't all have the

16 same standards or expectations of what constitutes

17 service quality, and we don't all value it the same

18 relative to other dimensions of our service. So I

19 think, again, that choice is best left to each

20 individual consumer.

21 Q In a related -- I guess a related question. Let's

22 assume that you're a wireline subscriber and you're

23 paying a surcharge on your bill to support intermodal

24 LNP and because of where you're located and the quality

25 of signal coverage you cannot even make wireless calls

1 at your residence.  
 2 Do you feel in those circumstances that that  
 3 customer it's justified to impose the LNP surcharge on  
 4 that customer?  
 5 A I think that customer may be frustrated by the fact  
 6 they might not have the service options they like, but  
 7 they will also accrue to them the benefits of general  
 8 competition in the marketplace.  
 9 MR. COIT: That's all the questions  
 10 I have.  
 11 MR. SMITH: Thank you. I forgot.  
 12 Brett, do you have anything?  
 13 MR. KOENECKE: I sure don't. Thank  
 14 you for asking.  
 15 MS. WIEST: No.  
 16 MR. SMITH: Commissioners, any last  
 17 questions?  
 18 COMMISSIONER BURG: I do. Some of  
 19 these discussions brought up several. I just want  
 20 to clarify one. Do you remember the discussion you  
 21 had with Commissioner Hanson about the process of  
 22 porting?  
 23 THE WITNESS: Yeah. Long-winded  
 24 discussion.  
 25 COMMISSIONER BURG: Long-winded one.

1 Did I gather from that, you know, if somebody  
 2 orders ahead of time, they can get it when they  
 3 want it -- in other words, I'm looking at the  
 4 four-day window, they're talking about the two-day,  
 5 and there's some discussion about two and a half  
 6 hours. But that would only be --  
 7 In other words, if I said I want it on July 1,  
 8 I should be able to get it on July 1 under the  
 9 four-day --  
 10 THE WITNESS: Yeah. If you wanted  
 11 it at some future date, I think the limit is no  
 12 longer than 30 days in the future, but they have  
 13 that scheduling flexibility.  
 14 COMMISSIONER BURG: But if I want to  
 15 make sure I don't lose service and I say I'm going  
 16 to order it now and I want it effective July 1, I  
 17 should be able to get it July 1?  
 18 THE WITNESS: Should be able to,  
 19 yes.  
 20 COMMISSIONER BURG: If I wanted to  
 21 get it tomorrow, I could have to wait four days?  
 22 THE WITNESS: If it was a wireline  
 23 to wireless port.  
 24 COMMISSIONER BURG: I just wanted to  
 25 clarify that's the way it would work. I want to go

1 back to this one a little bit because some  
 2 discussion after I brought it up before.  
 3 Now that 496 point you got down there, how did  
 4 you arrive at that?  
 5 THE WITNESS: Well, here's what we  
 6 did. We forecasted the ports that we expected as  
 7 Western Wireless. In other words, these are our --  
 8 we forecast the internally, for our purposes what  
 9 we thought we would be able to win in these service  
 10 areas. And then we assumed we had a 45 percent  
 11 market share. And so our port estimate divided by  
 12 .45, and that took us to 496.  
 13 COMMISSIONER BURG: And this isn't  
 14 cell service in the Brookings exchange, this is  
 15 just ports; is that correct?  
 16 THE WITNESS: Yes. This would be  
 17 ports in a year.  
 18 COMMISSIONER BURG: So you're  
 19 thinking that in a year there's going to be over  
 20 1,000 ports in Brookings?  
 21 THE WITNESS: No. I'm sorry. The  
 22 496 represents all the ports we would expect in  
 23 Brookings.  
 24 COMMISSIONER BURG: Not just yours?  
 25 THE WITNESS: Our share would be 45

1 percent of that number.  
 2 COMMISSIONER BURG: Okay. I thought  
 3 you said it the other way around.  
 4 THE WITNESS: I think I might have.  
 5 COMMISSIONER BURG: I thought you  
 6 said this is 45 percent. Even that looks like a  
 7 pretty large take.  
 8 The other one, I already discussed this one a  
 9 little bit, but this one -- of course, I didn't  
 10 have time to read it, but does this one mention LNP  
 11 any place in this whole survey?  
 12 THE WITNESS: It's not specific to  
 13 LNP. It does talk about mostly the youth market  
 14 and what the technology concerns should be for  
 15 rural telephone companies to compete for that youth  
 16 market.  
 17 COMMISSIONER BURG: But you're  
 18 introducing it as support for these Dockets of LNP;  
 19 right?  
 20 THE WITNESS: I think it  
 21 demonstrates that the youth demand for wireless as  
 22 a competitive service is significant.  
 23 COMMISSIONER BURG: What local  
 24 landline number is a teen going to port?  
 25 THE WITNESS: Well, a teen or a

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1 20-something could port a couple of different  
 2 examples off the top of my head. If a teen has a  
 3 teen line at home while they're in high school and,  
 4 you know, they move out of the house when they're  
 5 18, they could retain that same phone number and  
 6 put it on a wireless phone. That would be an  
 7 example.

8 You know, younger people, you know, they tend  
 9 not -- they tend to have temporary housing as their  
 10 first home or residence in an area. They might  
 11 have two or three of those temporary housing  
 12 scenarios, apartments or what have you. As they  
 13 move around town, they might want to take their  
 14 apartment phone number --

15 COMMISSIONER BURG: But you've kind  
 16 of testified they aren't going to have apartment  
 17 phones, they're only going to have wireless.

18 THE WITNESS: Some will, some won't,  
 19 some do today.

20 COMMISSIONER BURG: Most teens I  
 21 know never pay a landline bill, don't have a  
 22 landline number to port.

23 THE WITNESS: Becoming much more  
 24 common, yes.

25 COMMISSIONER BURG: It sort of

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1 drives the dilemma that I have. What I'm hearing,  
 2 that group of people and even a lot more, they'd  
 3 rather see the money available in the  
 4 telecommunications business spent to get better  
 5 wireless service, not to spend the money on things  
 6 that could allow them to port a number they don't  
 7 even have.

8 I mean, that's the dilemma I see with the kind  
 9 of costs that we're seeing here is, is that the  
 10 best place to put those dollars when we are  
 11 getting -- we haven't gotten any complaints that  
 12 I'm aware of about inability to port, but we get  
 13 lots of them on the ability to get a good signal.

14 THE WITNESS: We've already spent  
 15 those dollars to implement number portability as we  
 16 were obligated to do.

17 COMMISSIONER BURG: Right. Are you  
 18 just saying you're wanting everybody else to have  
 19 to spend them because you did even if they don't  
 20 have value?

21 THE WITNESS: What I'm saying is I  
 22 want to compete for their customers on an equal  
 23 footing.

24 COMMISSIONER BURG: That's all I  
 25 have.

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1 MR. SMITH: I have one last  
 2 question. In the Exhibit Western Wireless 14 there  
 3 are a series of communications involving Qwest and  
 4 I guess members of MIC, and I note dates on some of  
 5 these date back quite a while. I mean, they're  
 6 back into at least March.

7 THE WITNESS: Right.

8 MR. SMITH: This goes to the time  
 9 period that you thought was appropriate to allow  
 10 for reaching a solution. Given that and given that  
 11 they're still locked up and requesting another 67  
 12 days in Minnesota or whatever it is, is that 60-day  
 13 period really realistic do you think? I mean, it  
 14 looks like there's a lot -- given the amount of  
 15 wrangling and stuff on this, it looks like there's  
 16 a lot more there than one's going to be able --

17 THE WITNESS: They're arguing about  
 18 the difference between seven-tenths of a cent and  
 19 two-tenths of a cent. They're not arguing about  
 20 the difference between \$720,000 versus a couple  
 21 thousand dollars.

22 Even if they adopted Qwest's proposal here,  
 23 the rates you see for transport or transit would  
 24 be -- you know, they might be twice what I have  
 25 proposed here, and they'd still be 1 percent of

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1 what the Petitioners have proposed.

2 There are Interconnection Agreements available  
 3 today in South Dakota that can be opted into within  
 4 a matter of days, and Western Wireless has such an  
 5 agreement. That agreement calls for transit at  
 6 three-tenths of a cent, and there's nothing to  
 7 prevent any carrier from opting that into  
 8 agreement.

9 MR. SMITH: I note in one document,  
 10 and, again, we haven't had any time to look at it,  
 11 it appeared as though Qwest was objecting to the  
 12 use of toll trunks for this. Is that what went  
 13 down?

14 THE WITNESS: What Minnesota has is  
 15 what South Dakota has in that these trunks that  
 16 today deliver wireless traffic to telephone  
 17 companies using the Qwest tandem used to be two-way  
 18 trunks, and today they're one-way trunks. And what  
 19 Qwest is suggesting is that we -- they revert those  
 20 trunks back to two-way trunks so traffic can flow  
 21 both ways.

22 What isn't particularly well-addressed in this  
 23 is that Qwest also -- and the Minnesota telcos also  
 24 see this as a means by which they can avoid the  
 25 phantom traffic problem that they're having today,

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1 which is, as we heard, traffic delivered over these  
2 trunks terminating to them that they're not able to  
3 bill and record for. And the process of converting  
4 these trunks to two-way they could also be upgraded  
5 to SS7 and signaling information associated with  
6 SS7 would eliminate the phantom traffic problem.

7 MR. SMITH: I guess back to that,  
8 though, you know, because assuming there's some  
9 cutoff point here money-wise as we've talked about,  
10 when it becomes -- I can't remember the exact  
11 language of the standard, but a significant adverse  
12 economic impact on the end-user, you know, then --  
13 I mean, at some point if the Qwest number that's  
14 ultimately negotiated results in, you know, an  
15 extra 50 cents on here, which I don't necessarily  
16 say that it would but here we'd be looking at -- on  
17 this one here, for example, on Interstate we're  
18 looking at what the difference between with or  
19 without transport is about 18 cents; right?

20 THE WITNESS: Yeah. Well, 16 to 18  
21 cents, yes.

22 MR. SMITH: So if you're talking on  
23 Interstate I see 80 on the bottom and then 62 so,  
24 you know at some point -- and this one may not be a  
25 good example because those numbers are pretty low.

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1 But at some point you take that 20 cents or  
2 whatever it's going to be or 25 cents and double it  
3 or triple it, you know, it's going to punch it over  
4 that magical line, whatever we think that is.

5 THE WITNESS: Well, and that would  
6 be true -- again, if you doubled the transit rate  
7 per minute, which I have used in my proposal, you  
8 would get about a 5 to 8 percent increase in these  
9 numbers, not a -- as you suggested, a 30 or 40  
10 percent increase.

11 But, you know, I have conviction -- and in  
12 fact, just to clarify what's going on in Minnesota  
13 today, what's going on in Minnesota today is two  
14 things. Should they get their 67-day extension or  
15 whatever it is and what rate should Qwest -- should  
16 Qwest be ordered to provide this service at a rate  
17 other than what they've offered.

18 MR. SMITH: Uh-huh.

19 THE WITNESS: And the staff  
20 recommendation in Minnesota was that Qwest should  
21 be offering that rate, I believe, at the TELRIC  
22 rate.

23 MR. SMITH: Back to the original  
24 question, though. Given the amount of time that  
25 has been spent in Minnesota and the requests for an

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1 additional 60-whatever number of days, is 60 days a  
2 reasonable period of time to think one can  
3 negotiate a solution like this in South Dakota?

4 Is that realistically adequate, or do you  
5 think the plowing of the ground -- do you think  
6 Minnesota will create enough of a -- will resolve  
7 enough of the issues in the Qwest organization  
8 where it would be easier and quicker?

9 THE WITNESS: Qwest in Minnesota  
10 said they were eager to provide this service. And  
11 we -- you know, we don't propose that Qwest is the  
12 only answer to do this. I mean, we talked about a  
13 way that SDN could provide this service today, and  
14 because of the very low volumes of traffic that the  
15 costs that would be absorbed by the telcos would be  
16 tiny. That could go on for some number of months  
17 before, you know, a Qwest agreement would need to  
18 be put in play to achieve similar -- a similar cost  
19 structure.

20 So I think -- what I proposed was 60 days from  
21 the date your order is going to be. That is the  
22 assumption that while we're waiting for the order  
23 that activity is happening and that people are  
24 moving towards implementation. You know, from a  
25 cold start to do -- from where these companies are

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1 today and to expect them 60 days from now to be  
2 ready, that would be not impossible but stretching  
3 the limits. But if it's 30 days more for your  
4 decision, 90 days is realistic.

5 MR. SMITH: Thank you. Are there  
6 any other questions?

7 (No audible response)

8 MR. SMITH: You're excused.

9 THE WITNESS: Thank you.

10 MR. SMITH: Thank you. Are you  
11 counsel for the next witness?

12 MS. POLLMAN ROGERS: Yes, I am.

13 MR. SMITH: Thanks. Ms. Rogers,  
14 call your next witness.

15 MS. POLLMAN ROGERS: We'll have to  
16 mark exhibits.

17 (Discussion off the record)

18 (Valley Exhibits 1 through 3 are marked for  
19 identification)

20 MR. SMITH: We're back on the  
21 record.

22 Ms. Rogers, you may proceed with Mr. Oleson.

23 MR. POLLMAN ROGERS: This will be in  
24 Docket TC04-050, Valley Telecommunications  
25 Cooperative's petition, and we would call

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1 Steve Oleson to the stand.  
 2 STEVEN OLESON,  
 3 called as a witness, being first duly sworn in the  
 4 above cause, testified under oath as follows:  
 5 DIRECT EXAMINATION  
 6 BY MS. POLLMAN ROGERS:  
 7 Q Good afternoon.  
 8 A Good afternoon.  
 9 Q Had a long day so far.  
 10 A A long three days.  
 11 Q Long three days. Could you please state your name and  
 12 address for the record.  
 13 A My name is Steven Oleson. I'm general manager of  
 14 Valley Telecommunications in Herreid, South Dakota.  
 15 Q I asked you to look at what we have marked as  
 16 Valley Exhibits 1 and 2. Could you please take a look  
 17 at those.  
 18 (Witness examines documents)  
 19 Q Are you familiar with those documents?  
 20 A Yes, I am.  
 21 Q Is Valley Exhibit 1 the direct prefiled testimony you  
 22 filed in this case?  
 23 A Yes, it is.  
 24 Q And Valley Exhibit 2 would be the rebuttal testimony  
 25 you prefiled in this case?

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1 A Yes, it is.  
 2 Q Did you prepare those documents or direct the  
 3 preparation of these documents?  
 4 A Yes, I did.  
 5 Q Do you have any corrections or additions you would like  
 6 to make to these documents?  
 7 A Yes, I do.  
 8 Q What would that be?  
 9 A On the direct prefiled testimony on page 3 the  
 10 number -- what are the number of wireless carriers  
 11 authorized to serve in our company's service area, I  
 12 put two. There is three. And the additional carrier  
 13 is CommNet Cellular.  
 14 Q Any other additions or corrections?  
 15 A No.  
 16 Q If I would ask you the questions that I asked -- that  
 17 were asked in Valley's Exhibits 1 and 2 today, would  
 18 your answers be the same?  
 19 A Yes.  
 20 Q With the correction we just made?  
 21 A Yes.  
 22 Q Would you provide us with a brief summary of your  
 23 prefiled testimony, please.  
 24 A Yes. I believe that due to requests for local number  
 25 portability and the fact that Valley's service area has

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1 approximately 25 percent or less cellular coverage plus  
 2 the cost of local number portability deployment, that  
 3 Valley be granted an extension for the deployment of  
 4 local number portability.  
 5 Q Thank you.  
 6 MS. POLLMAN ROGERS: I would tender  
 7 the witness for cross-examination.  
 8 MR. SMITH: Mr. Lewis.  
 9 CROSS-EXAMINATION  
 10 BY MR. LEWIS:  
 11 Q Thank you. Good day, Commission and counsel. Good day  
 12 or end of day, I should say.  
 13 A I hope so.  
 14 Q It's Mr. Oleson?  
 15 A Oleson.  
 16 Q Great. Sir, I represent Western Wireless. My name is  
 17 Paul Lewis, and I have a series of questions concerning  
 18 this LNP Docket. I'll jump right into it.  
 19 For a while now LNP initiation has been on  
 20 the horizon, and do you understand that in 1996 number  
 21 portability became required by the FCC; true?  
 22 A Yes.  
 23 Q And now today due to the order dated November 10, 2003  
 24 the FCC has mandated compliance for your company by the  
 25 24th of May, 2004 unless you otherwise have received an

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1 exception. Is that true as well?  
 2 A Yes.  
 3 Q So from December of 2003 until May of 2004 in  
 4 investigating your LNP initiation or implementation  
 5 options did you ever contact Western Wireless to  
 6 explore or talk about cost-effective ways to put LNP  
 7 into service?  
 8 A No, I did not.  
 9 Q Sir, do you have any exchanges in North Dakota?  
 10 A No, we do not.  
 11 Q One of the arguments you've heard before this  
 12 Commission concerning LNP implementation is undue  
 13 economic burden that will be placed on consumers and  
 14 companies such as your own. Have you been aware of  
 15 that?  
 16 A Yes.  
 17 Q And you realize that Congress clearly envisioned that  
 18 requiring LNP implementation would cause you to incur  
 19 additional costs, don't you?  
 20 A I believe so.  
 21 Q Do you also realize that Congress in anticipation of  
 22 those costs provided for an end-user surcharge in which  
 23 you could recoup those costs for LNP implementation?  
 24 A I believe I am aware of that.  
 25 Q Sir, today, you know, we've talked a lot about choice,

1 and I'd like to ask you a few questions about the  
 2 services you provide.  
 3 Do you have dial-up networking available to  
 4 your customers for Internet access?  
 5 A Yes, we do.  
 6 Q Do you also provide DSL?  
 7 A Yes, we do.  
 8 Q And do you provide cable TV?  
 9 A Yes, we do.  
 10 Q So one of the concerns that the committee has  
 11 manifested is choices for customers and wouldn't you  
 12 agree that when you provide dial-up and DSL you  
 13 inherently are giving your customers a choice?  
 14 MS. POLLMAN ROGERS: Just a minute.  
 15 Before you answer the question could you please  
 16 clarify who you're referring to as committee?  
 17 MR. LEWIS: I'm sorry. The  
 18 Commission here today.  
 19 MS. POLLMAN ROGERS: And your  
 20 question was prefaced on --  
 21 MR. LEWIS: Discussions concerning  
 22 consumer choice.  
 23 MS. POLLMAN ROGERS: That they  
 24 brought up?  
 25 MR. LEWIS: Yes. Commissioner Burg

1 brought that up specifically commenting about  
 2 choice and whether choice was good for consumers.  
 3 MS. POLLMAN ROGERS: But you were  
 4 referring to the Commission?  
 5 MR. LEWIS: Yes.  
 6 Q So wouldn't you agree that giving DSL services in  
 7 addition to that dial-up, that gives your customers  
 8 choices?  
 9 A Yes.  
 10 Q And that DSL service is -- you charge kind of a premium  
 11 fee for that, do you not, because in essence you get  
 12 quicker connectivity, you don't have risks of being  
 13 disconnected like you do with dial-up?  
 14 A Yes.  
 15 Q So it's more convenient for customers?  
 16 A Yes.  
 17 Q Now I see in your testimony on page 2 that you're  
 18 working to deploy video over DSL and you're researching  
 19 the possibility of voice over Internet protocol. Is  
 20 that true?  
 21 A Are you referring to my prefiled or rebuttal?  
 22 Q It's your direct testimony, sir. That would be your  
 23 regular testimony, and it's on page 2, if you have the  
 24 same sequence as we do.  
 25 A Okay. Yes, I see that.

1 Q And wouldn't it be fair to say that in your researching  
 2 of voice over Internet protocol options that you'd like  
 3 to give to your customers it gives them more of a  
 4 choice or more of a way of making a call over Internet  
 5 access?  
 6 A I guess I can't say that. We haven't investigated that  
 7 part.  
 8 Q So now when you say video over DSL that's in essence  
 9 TV, is it not?  
 10 A Yes, it is.  
 11 Q So you are competing in your area to provide television  
 12 service, are you not?  
 13 A Yes.  
 14 Q So in essence it's a choice for your customers; true?  
 15 A Yes.  
 16 Q By this choice in your service area that you're giving  
 17 your customers it is limited to basically the Valley  
 18 Co-op service area, is it not?  
 19 A Yes, it is.  
 20 Q And this is just like what Western Wireless is trying  
 21 to do in implementing local number portability, but  
 22 their service area is on a national level, is it not?  
 23 A I don't know as if I could state that.  
 24 Q But you are trying to give your customers choices just  
 25 as Western Wireless is trying to give their customers

1 choices?  
 2 A We are trying to give our customers choices, yes.  
 3 Q Thank you. You've noted in your direct testimony on  
 4 page 1 that cellular companies have a more extensive  
 5 calling area than your exchange boundaries. Do you  
 6 agree with that statement?  
 7 It's at the bottom of page 1 of your direct,  
 8 if we have the numbering sequence correct.  
 9 A Yes.  
 10 Q So wouldn't you agree that part of those choices, that  
 11 it's beneficial for the public to have a carrier with a  
 12 larger local calling area?  
 13 A Yes.  
 14 Q And, in essence, you have an extended area of service,  
 15 do you not?  
 16 A Yes, we do.  
 17 Q Sir, where are those to? Who do you provide those  
 18 extended service locations to? What towns?  
 19 A I guess I'm not sure I have that information.  
 20 Q But would you agree with me that extended area service  
 21 is driven by customer demand? They want to have the  
 22 option to be able to make the call outside the area and  
 23 have it as a local call?  
 24 A Those areas were established before I took over. I do  
 25 not know what drove them to have the expanded area.

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1 **Q** But to date Valley still maintains those areas.  
 2 **A** Yes, we do.  
 3 **Q** And you charge a little bit more in the line charge for  
 4 that, do you not? It's not a toll call, but you charge  
 5 a little bit more to have that service?  
 6 **A** Not that I'm aware of.  
 7 **Q** Okay. But your customers do pay and enjoy that option,  
 8 do they not, pay for and enjoy that option?  
 9 **A** They do have that option.  
 10 **Q** So if we look at just simple pocketbook economics, you  
 11 know, what hits us in our back pocket, it would  
 12 actually be a benefit for people to be able to keep  
 13 their phone number and get extended area service  
 14 without any additional charges, wouldn't you agree?  
 15 **A** I am not -- no, I wouldn't. With the lack of cell  
 16 service in our area basically that would not be a true  
 17 statement.  
 18 **Q** But hypothetically if we expanded that cell service, it  
 19 would be a benefit, would it not?  
 20 **A** If someone expanded cell service, it could be.  
 21 **Q** You have not done any independent or internal surveys  
 22 of your customers to determine what they would like or  
 23 would be willing to pay to have the option of local  
 24 number portability, have you?  
 25 **A** No, we have not.

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1 **Q** And you're not presenting any demographic information  
 2 today to the Commission on the average income and  
 3 interests of your customers, are you?  
 4 **A** I'm not presenting that, but I do have that  
 5 information.  
 6 **Q** And regarding the deployment of local number  
 7 portability, Valley conducted no independent cost  
 8 analysis on your own, your own office? You did no cost  
 9 analysis, you were primarily relying on Mr. Bullock,  
 10 were you not?  
 11 **A** Yes, we are.  
 12 **Q** And you used Mr. Bullock's numbers to constitute your  
 13 filing to the Commission to create what you've referred  
 14 to in your rebuttal testimony as complete a petition as  
 15 possible. Is that true?  
 16 **A** I believe that's true.  
 17 **Q** In your testimony you've stated that demand for local  
 18 number portability appears to be minimal. Do you agree  
 19 with that?  
 20 **A** Actually I think if you look in our testimony we have  
 21 had no -- we have had an inquiry but no requests.  
 22 **Q** Okay. So you say virtually there's been no active  
 23 requests --  
 24 **A** That's correct.  
 25 **Q** -- for local number portability. Sir, didn't you know

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1 that your cost analyst, Mr. Bullock, estimated at least  
 2 60 ports per year in your area?  
 3 **A** That's a question I would defer to Mr. Bullock.  
 4 **Q** But you did admit that you did rely upon his numbers  
 5 for your petition filings.  
 6 **A** Yes, we did.  
 7 **Q** How many host offices does Valley Telecommunications  
 8 have?  
 9 **A** One.  
 10 **Q** And how many points of interconnect are at that one  
 11 office, POIs at that one office?  
 12 **A** I'm not sure I understand your answer -- or your  
 13 question.  
 14 **Q** I'm just curious as to, you know, you have one host  
 15 office available for your exchange; correct?  
 16 **A** Yes.  
 17 **Q** Do you have any active points of interconnect at that  
 18 host office?  
 19 **A** To who?  
 20 **Q** To Western Wireless or any other cellular carrier.  
 21 **A** No, we do not.  
 22 **Q** Right now can you represent before this Commission that  
 23 you are able to afford the implementation of LNP  
 24 services? You are basically, aren't you, able to  
 25 afford it?

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1 **A** I guess I -- I would refer that to Mr. Bullock.  
 2 **Q** And today you're not going to contend before the  
 3 Commission that the implementation of LNP is not  
 4 technically feasible, are you?  
 5 **A** Repeat the question, please.  
 6 **Q** You're not going to represent before the Commission  
 7 today that technically LNP cannot be implemented, are  
 8 you? You're not going to say to them, hey, we can't do  
 9 this, it's too technically difficult?  
 10 **A** No.  
 11 MR. LEWIS: Thank you. No further  
 12 questions.  
 13 MR. SMITH: Are you a party in this  
 14 one?  
 15 MR. KOENECKE: I think so.  
 16 MR. SMITH: I forgot. I'm sorry.  
 17 CROSS-EXAMINATION  
 18 BY MR. KOENECKE:  
 19 **Q** Mr. Oleson, my name is Brett Koenecke and I'm a lawyer  
 20 from Pierre and I represent Midcontinent Communications  
 21 today. I've got a couple of questions.  
 22 I've been feverishly trying to determine in  
 23 the file as kept by my partner, Dave Gerdes, whether  
 24 you object or would oppose local number portability for  
 25 wireline to wireline service. Can you tell me an

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1 answer to that question?

2 A I don't believe I'd have any reason.

3 Q Okay. So as I've read the documents --

4 A I don't know as if there's been any cost studies done

5 for that so I guess I wouldn't have that answer.

6 Q As I read your documents, everything seems to be

7 predicated on wireline to wireless. Have I missed

8 anything in that regard?

9 A No.

10 MR. KOENECKE: Thank you very much.

11 That's all I have.

12 MR. SMITH: Ms. Wiest.

13 MS. WIEST: Thank you.

14 CROSS-EXAMINATION

15 BY MS. WIEST:

16 Q What's your current local rate?

17 A \$15.50.

18 Q I see you updated your testimony, and there are three

19 carriers authorized to provide service in your area; is

20 that correct?

21 A With some qualifications. We currently have CommNet

22 Cellular within our territory, and I'm not sure --

23 Commissioner Sahr may know more about it than I do --

24 whether they are currently operating or not.

25 Q And with respect to Verizon and Western Wireless -- you

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1 said you have 25 percent or less cellular coverage.

2 First of all, who is providing that, the service, that

3 coverage?

4 A Western Wireless and Verizon.

5 Q They both are providing coverage to your area?

6 A In small sections of our area, yes.

7 Q And can you tell me where that coverage is located?

8 A Verizon has a tower in the edge of our exchange in

9 Glenham.

10 Q Okay.

11 A And Western Wireless has a tower north of our exchange

12 of Hosmer.

13 Q And have people in your area, do you know, complained

14 about the lack of cellular coverage in your area?

15 A Very much so.

16 Q And has the cellular companies responded to that to

17 increase any of that?

18 A To my knowledge, no.

19 Q So is there any reason to expect that your cellular

20 coverage will increase in the near future?

21 A I have had no indication that it will.

22 MS. WIEST: That's all I have.

23 MR. SMITH: Thank you. Do

24 Commissioners have any questions of Mr. Oleson?

25 Commissioner Hanson, do you have a question?

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1 You're giving me a look.

2 VICE CHAIR HANSON: It wasn't

3 intentional. Mr. Oleson, almost kiddingly I'd ask

4 you if there were any questions that we asked Randy

5 that you disagree with, but I'd like to know is

6 there anything that you'd like to say that you

7 haven't been asked?

8 THE WITNESS: I guess in Valley's

9 situation I believe with the amount of cell

10 coverage that we currently have local number

11 portability is not feasible. And as I answered to

12 her, we have no indications in the future that

13 anybody plans on serving us.

14 VICE CHAIR HANSON: So it's

15 economically feasible, but you don't have an

16 indication for -- when you say serving us you're

17 talking about cellular?

18 THE WITNESS: Cellular, yes.

19 VICE CHAIR HANSON: Okay. All

20 right. Thank you.

21 MR. SMITH: Ms. Rogers. Rich, I

22 forgot to ask you earlier if you had anything.

23 MR. COIT: No questions.

24 MR. SMITH: I think -- did you offer

25 the exhibits?

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1 MS. POLLMAN ROGERS: No. First of

2 all, I would offer Valley Exhibits 1 and 2.

3 MR. LEWIS: No objections.

4 MR. KOENECKE: No objection.

5 MS. WIEST: No objection.

6 MR. SMITH: Valley Exhibit 1 and 2

7 are admitted.

8 REDIRECT EXAMINATION

9 BY MS. POLLMAN ROGERS:

10 Q How long have you been the manager of Valley?

11 A A year and a half.

12 MS. POLLMAN ROGERS: Mr. Lewis; is

13 that right?

14 MR. LEWIS: Correct.

15 Q Mr. Lewis asked you about some of the other services

16 that you provide up there with regard to video and DSL

17 and those types of services. Would it be fair to say

18 that in those instances the customer pays for what

19 services they choose to avail themselves of?

20 A I believe in all instances they do.

21 Q And in response to the last set of questions do I

22 understand you to say that deployment of LNP in your

23 service area would be too expensive for a benefit that

24 no one has demanded?

25 A Yes. That would be true.



1 MS. POLLMAN ROGERS: Thank you.  
 2 That's all I have.  
 3 MR. SMITH: Mr. Lewis, any further  
 4 questions?  
 5 RE-CROSS-EXAMINATION  
 6 BY MR. LEWIS:  
 7 Q Sir, were you in the room earlier when Mr. Dickens  
 8 posed his hypothetical concerning the coverage of Blunt  
 9 or the lack thereof?  
 10 We were dealing with -- it was a hypothetical  
 11 that he posed about -- I understand Blunt's not in your  
 12 service territory --  
 13 MS. POLLMAN ROGERS: I'm going to  
 14 object to this as beyond the scope of the redirect.  
 15 MR. SMITH: Response, Mr. Lewis?  
 16 MR. LEWIS: I'll rephrase.  
 17 Q Given the lack of your coverage, your cellular coverage  
 18 in your area -- I would like to pose a hypothetical.  
 19 If a tower went up tomorrow in the Valley area, the  
 20 exchange area, to provide coverage, would you provide  
 21 LNP coverage -- or service?  
 22 A I guess I'm not sure how to answer that. One tower  
 23 would -- with the size of our territory would not be a  
 24 sufficient means for us to make it workable. I don't  
 25 believe it would be.

1 Q So your answer is then you wouldn't go ahead and  
 2 provide LNP service?  
 3 A I'm not saying we wouldn't, but I'm not sure that it's  
 4 feasible.  
 5 MR. LEWIS: No further questions.  
 6 MR. SMITH: Any questions from other  
 7 parties?  
 8 MS. AILTS WIEST: None.  
 9 MR. SMITH: Commissioners?  
 10 REDIRECT EXAMINATION  
 11 BY MS. POLLMAN ROGERS:  
 12 Q Again, just following up, you mean one tower would not  
 13 provide sufficient additional coverage to make this a  
 14 viable service for your customers.  
 15 A That's correct.  
 16 MS. POLLMAN ROGERS: That's all.  
 17 MR. SMITH: Mr. Lewis, anything  
 18 further?  
 19 MR. LEWIS: No.  
 20 MR. SMITH: Thank you. You're  
 21 excused, Mr. Oleson. Thank you for having the  
 22 patience to wait all day.  
 23 Should we proceed with any other witnesses  
 24 today, or has everyone had enough?  
 25 CHAIRMAN SAHR: Only if that's the

1 way you want to spend your birthday.  
 2 MR. SMITH: We have people who have  
 3 come to town to testify today.  
 4 MS. POLLMAN ROGERS: I believe  
 5 they're all available tomorrow.  
 6 MR. SMITH: We can go off the  
 7 record. We'll go into recess.  
 8 (A short recess is taken)  
 9 (Exhibits Faith 1 through 3 are marked for identification)  
 10 MR. SMITH: Back on the record.  
 11 We're now going to consider Docket No. TC04-051,  
 12 the petition of the City of Faith for suspension of  
 13 LNP obligations.  
 14 Ms. Rogers.  
 15 MS. POLLMAN ROGERS: Yes. We would  
 16 call Shane Ayres to the stand.  
 17 SHANE AYRES,  
 18 called as a witness, being first duly sworn in the  
 19 above cause, testified under oath as follows:  
 20 DIRECT EXAMINATION  
 21 BY MS. POLLMAN ROGERS:  
 22 Q Would you please state your name and business address  
 23 for the record.  
 24 A Yeah. Shane Ayres. I work for the City of Faith,  
 25 Faith, South Dakota.

1 Q What is your actual occupation with Faith?  
 2 A Finance officer.  
 3 Q And as part of your duties as finance officer are you  
 4 also in charge of Faith Municipal Telephone Company?  
 5 A Yes. On a day-to-day basis.  
 6 Q You have in front of you what have been marked as Faith  
 7 Exhibit 1 and Faith Exhibit 2. Would you take a look  
 8 at those documents.  
 9 (Witness examines documents)  
 10 Q Is Exhibit 1 the direct prefiled testimony that you  
 11 filed in this case?  
 12 A That's right.  
 13 Q And Exhibit 2 would be your prefiled rebuttal  
 14 testimony?  
 15 A Correct.  
 16 Q Do you have any corrections or additions you wish to  
 17 make to these exhibits?  
 18 A No, I do not.  
 19 Q And you have reviewed them. If I asked you the  
 20 questions that are these documents, would your answers  
 21 be the same today?  
 22 A Yes.  
 23 Q Would you please give a brief summary of your prefiled  
 24 testimony.  
 25 A The summary is that the City of Faith being of low

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1 access lines it would not be in the public interest or  
2 it would be economically burdensome -- and economically  
3 burdensome to the City of Faith and the consumers of  
4 Faith.

5 **Q** If you were required --

6 **A** If we were required to implement LNP.

7 MS. POLLMAN ROGERS: With that, I  
8 would offer Faith Exhibits 1 and 2.

9 MR. LEWIS: No objection.

10 MR. KOENECKE: No objection.

11 MS. WIEST: No objection.

12 MR. SMITH: Faith 1 and 2 are  
13 admitted.

14 MS. POLLMAN ROGERS: I would tender  
15 the witness for cross. Mr. Koenecke.

16 MR. KOENECKE: Thank you. I'll be  
17 brief.

#### CROSS-EXAMINATION

18 BY MR. KOENECKE:

19 **Q** I'm Brett Koenecke, a lawyer from Pierre. I represent  
20 Midcontinent Communications. Do I understand your  
21 objections to local number portability to extend to  
22 wireline to wireline portability, or is it just  
23 wireline to wireless portability?

24 **A** Yes. I believe it is both.

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1 **Q** It's both?

2 MR. KOENECKE: Okay. That's all I  
3 have.

4 MR. SMITH: Are you done?

5 MR. KOENECKE: Yes.

6 MR. SMITH: Mr. Lewis.

7 CROSS-EXAMINATION

8 BY MR. LEWIS:

9 **Q** Good evening, Mr. Ayres. I see by your testimony  
10 basically you've stated Faith has already established  
11 of point of interconnect with SDN and Qwest, have you  
12 not?

13 **A** That's correct.

14 **Q** On page 2 of your direct testimony you've stated that  
15 wireless carriers have requested LNP connections with  
16 you folks. Is that true also?

17 **A** That's right.

18 **Q** You were in the room earlier today. Were you able to  
19 hear some of Mr. Williams' testimony?

20 **A** Yes.

21 **Q** Did you hear Mr. Williams mention that he would be  
22 willing to consider a suspension of the LNP  
23 implementation until March 31, 2005 for Faith?

24 **A** Yes, I did.

25 **Q** Would you be willing to immediately negotiate with

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1 Western Wireless or any other cellular company in an  
2 attempt to achieve a lower cost method of LNP  
3 implementation?

4 MS. POLLMAN ROGERS: I'm going to  
5 object to that question. That goes way beyond the  
6 scope of direct examination here.

7 MR. SMITH: Overruled.

8 **A** Could you repeat that one more time?

9 **Q** Sure. Would you be willing to immediately negotiate  
10 with Western Wireless or any other cellular company in  
11 an attempt to achieve a lower cost-effective method of  
12 LNP implementation?

13 Your answer isn't legally binding. It's just  
14 would you be willing to enter into negotiations to  
15 achieve this goal?

16 **A** I think we'd be willing to look at something, I mean,  
17 if it brings the cost down. That would be my answer.

18 MR. LEWIS: Thank you. No further  
19 questions.

20 MR. SMITH: Ms. Wiest.

21 MS. WIEST: Thank you.

22 CROSS-EXAMINATION

23 BY MS. WIEST:

24 **Q** What is your current local rate?

25 **A** 9.50.

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1 **Q** How many wireless carriers have the authority to serve  
2 your area? Do you know?

3 **A** I believe there are two.

4 **Q** Who are they?

5 **A** Western Wireless and Verizon.

6 **Q** Are both of those carriers actually serving your area?

7 **A** Yes.

8 **Q** And you stated that wireless carriers have requested  
9 LNP. Do you remember who?

10 **A** I believe both Verizon and Western Wireless have.

11 **Q** And did you respond to that?

12 **A** Yes.

13 **Q** And I don't know if you know this or not but do you  
14 know what type of switch Faith has?

15 **A** Yes. A Mytel switch.

16 **Q** Is it your intention to upgrade that switch or get a  
17 new switch in the near future, or do you know?

18 **A** I would have to say as soon as we can plan for that and  
19 as far as the funds are available, yes.

20 **Q** Is it your understanding that you'll need one by 2007,  
21 the end of 2007?

22 **A** I don't know if we will need one. I think that the  
23 idea is that we will lose support for that switch.

24 **Q** Okay.

25 MS. WIEST: That's all I have.

1 Thank you.  
2 MR. SMITH: Commissioners, do you  
3 have questions?  
4 COMMISSIONER BURG: I guess just a  
5 couple of clarifying. How many consumers do you  
6 have? How many lines do you have in Faith?  
7 THE WITNESS: Last I checked it was  
8 less than 400.  
9 COMMISSIONER BURG: Is there anybod  
10 that actually is providing cell service for Faith  
11 now? I mean, do people have decent cell service  
12 available?  
13 THE WITNESS: I would say it's  
14 spotty.  
15 COMMISSIONER BURG: Where is the  
16 nearest tower? Do you know?  
17 THE WITNESS: There is a Verizon  
18 tower within -- on Faith Rural. I guess they lease  
19 that.  
20 COMMISSIONER BURG: How far away  
21 from Faith City is that?  
22 THE WITNESS: It's within city  
23 limits.  
24 COMMISSIONER BURG: That's all I  
25 have.

1 MR. SMITH: Other questions from the  
2 Commission? Ms. Rogers?  
3 MS. POLLMAN ROGERS: I don't have  
4 anything on redirect.  
5 MR. SMITH: Rich.  
6 MR. COIT: No questions.  
7 MR. LEWIS: Nothing further.  
8 MR. SMITH: Thank you. Ms. Wiest,  
9 anything further?  
10 MS. WIEST: No.  
11 MR. SMITH: Thank you, Mr. Ayres.  
12 You're excused.  
13 (Discussion off the record)  
14 (Proceedings are in recess)  
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715117164716167162371718  
72219723672310724872415  
726117262572823728773021  
731673117732573327344734  
167401074116742574520745  
2574920751775125752475211  
75924760157611761107621  
7625762876210

**Wireless's**

26930233833425445115124  
512551295206521854855497  
58959246012060226072609  
15645865726922672186796  
681169022692271412

**Wireless-to-wireless**

113742237514011341417520  
1152519526350265714

**Wireless-to-wireline**

163782044684792351415514  
165692

**Wireline**

8213512137820399639915399  
20400240074141642984299  
4467446744684461147311479  
234842248422488449954999  
4991449917499245011650116  
50119503125113514951422  
51535155518255411634419  
544195532556113568245692  
5693569557022571557117572  
757285741574158366181634  
863625637164123642164215  
64316451064519645196539  
6531065410654116622266616  
66986722467626761070210  
7261072622728227502575025  
7517759237592375924

**Wireline-to-wireless**

18141416418234461149824499  
5511355645693

**Wireline-to-wireless-portin**

1154416

**Wireline-to-wireline**

1344674842250116

**Wirelines**

114997

**Wisdom**

114097

**Wise**

241515239

**Wish**

25071475816

**Wished**

116631

**Withdraw**

114184

**Withstanding**

1156720

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**Youth**

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RECEIVED

THE PUBLIC UTILITIES COMMISSION

JUL 07 2004

OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

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Transcript of Proceedings

VOLUME III

June 25 through July 1, 2004

**ORIGINAL**

= = = = =

IN THE MATTER OF THE PETITION OF  
KENNEBEC TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-025

IN THE MATTER OF THE PETITION OF  
SANTEL COMMUNICATIONS COOPERATIVE,  
INC. FOR SUSPENSION OF INTERMODAL  
LOCAL NUMBER PORTABILITY OBLIGATIONS

TC04-038

IN THE MATTER OF THE PETITION OF  
SIOUX VALLEY TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-044

IN THE MATTER OF THE PETITION OF  
GOLDEN WEST TELECOMMUNICATIONS  
COOPERATIVE, INC., VIVIAN TELEPHONE  
COMPANY AND KADOKA TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-045

IN THE MATTER OF THE PETITION OF  
ARMOUR INDEPENDENT TELEPHONE COMPANY,  
BRIDGEWATER-CANISTOTA INDEPENDENT  
TELEPHONE COMPANY AND UNION TELEPHONE  
COMPANY FOR SUSPENSION OR MODIFICATION OF  
47 U.S.C. SECTION 251(B) (2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

TC04-046

Reported By Cheri McComsey Wittler, RPR, CRR

**PRECISION REPORTING**

**L I M I T E D**



<p style="text-align: center;">THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA</p> <p style="text-align: center;">=====</p> <p style="text-align: center;">Transcript of Proceedings VOLUME III June 25 through July 1, 2004</p> <p style="text-align: center;">=====</p> <p>IN THE MATTER OF THE PETITION OF KENNEBEC TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-025</p> <p>IN THE MATTER OF THE PETITION OF SANTTEL COMMUNICATIONS COOPERATIVE, INC. FOR SUSPENSION OF INTERMODAL LOCAL NUMBER PORTABILITY OBLIGATIONS TC04-038</p> <p>IN THE MATTER OF THE PETITION OF SIOUX VALLEY TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-044</p> <p>IN THE MATTER OF THE PETITION OF GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC., VIVIAN TELEPHONE COMPANY AND KADOKA TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-045</p> <p>IN THE MATTER OF THE PETITION OF ARMOUR INDEPENDENT TELEPHONE COMPANY, BRIDGEWATER-CANISTOTA INDEPENDENT TELEPHONE COMPANY AND UNION TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-046</p> <p>Reported By Cheri McComsey Wittler, RPR, CRR</p>	<p>IN THE MATTER OF THE PETITION OF ALLIANCE COMMUNICATIONS COOPERATIVE, INC. AND SPLITROCK PROPERTIES, INC. FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-055</p> <p>IN THE MATTER OF THE PETITION OF RC COMMUNICATIONS, INC. AND ROBERTS COUNTY TELEPHONE COOPERATIVE ASSOCIATION FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-056</p> <p>IN THE MATTER OF THE PETITION OF VENTURE COMMUNICATIONS COOPERATIVE FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-060</p> <p>IN THE MATTER OF THE PETITION OF WEST RIVER COOPERATIVE TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-061</p> <p>IN THE MATTER OF THE PETITION OF STOCKHOLM-STRANDBURG TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-062</p> <p>IN THE MATTER OF THE PETITION OF JAMES VALLEY COOPERATIVE TELEPHONE COMPANY FOR SUSPENSION OF INTERMODAL LOCAL NUMBER PORTABILITY OBLIGATIONS TC04-077</p> <p>IN THE MATTER OF THE PETITION OF TRI-COUNTY TELCOM, INC. FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-084</p> <p>IN THE MATTER OF THE PETITION OF CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-085</p>
<p>IN THE MATTER OF THE PETITION OF BROOKINGS MUNICIPAL UTILITIES D/B/A SWIFTEL COMMUNICATIONS FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-047</p> <p>IN THE MATTER OF THE PETITION OF BERESFORD MUNICIPAL TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-048</p> <p>IN THE MATTER OF THE PETITION OF MCCOOK COOPERATIVE TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-049</p> <p>IN THE MATTER OF THE PETITION OF VALLEY TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, INC. FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-050</p> <p>IN THE MATTER OF THE PETITION OF CITY OF FAITH TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-051</p> <p>IN THE MATTER OF THE PETITION OF MIDSTATE COMMUNICATIONS, INC. FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-052</p> <p>IN THE MATTER OF THE PETITION OF WESTERN TELEPHONE COMPANY FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-053</p> <p>IN THE MATTER OF THE PETITION OF INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC. FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. SECTION 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED TC04-054</p>	<p>BEFORE THE PUBLIC UTILITIES COMMISSION, ROBERT SAHR, CHAIRMAN GARY HANSON, VICE CHAIRMAN JIM BURG, COMMISSIONER</p> <p>COMMISSION STAFF John Smith Relayne Ailts Wiest Greg Rislov Harlan Best Keith Sanger Dave Jacobson Michele Farris Heather Forney Pam Bonrud</p> <p>APPEARANCES TALBOT J. WIECZOREK and PAUL LEWIS, GUNDERSON, PALMER, GOODSSELL &amp; NELSON, LLP, Attorneys at Law, 440 Mt. Rushmore Road, Rapid City, South Dakota 57709-8045, appearing as co-counsel on behalf of Western Wireless;</p> <p>DAVID A. GERDES and BRETT KOENECKE, MAY, ADAM, GERDES &amp; THOMPSON, Attorneys at Law, 513 South Pierre Street, Pierre, South Dakota 57501, appearing on behalf of Midcontinent Communications;</p> <p>J.G. HARRINGTON, DOW, LOHNES &amp; ALBERTSON, PLLC, Attorneys at Law, 1200 New Hampshire Avenue, NW, Suite 800, Washington, D.C. 20036-6802, appearing as co-counsel on behalf of Midcontinent Communications;</p> <p>DARLA POLLMAN ROGERS, RITER, ROGERS, WATTIER &amp; BROWN, LLP, Attorneys at Law, 319 South Coteau Street, Pierre, South Dakota 57501, appearing on behalf of Alliance and Splitrock, Armour, Union, Bridgewater-Canistota, Beresford, CRST, Faith, Golden West, Vivian and Kadoka, Interstate, Kennebec, McCook, Midstate, Roberts County and RC, Sioux Valley, Stockholm-Strandburg, Tri-County, Valley, West River, and Western;</p>



## APPEARANCES (Continued)

BENJAMIN H. DICKENS and MARY J. SISAK,  
BLOOSTON, MORDKOFKY, DICKENS, DUFFY &  
PRENDERGAST,  
Attorneys at Law, 2120 L Street, NW, Suite 300,  
Washington, D.C. 20037,  
appearing as co-counsel on behalf of Alliance  
and Splitrock, Armour, Union,  
Bridgewater-Canistota, Beresford, CRST,  
Faith, Golden West, Vivian and Kadoka,  
Interstate, Kennebec, McCook, Midstate,  
Roberts County and RC, Sioux Valley,  
Stockholm-Strandburg, Tri-County, Valley,  
West River, Western, and Brookings;

RICHARD D. COIT,  
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION,  
Attorney at Law, P.O. Box 57,  
Pierre, South Dakota 57501,  
appearing on behalf of the South Dakota  
Telecommunications Association;

JEFFREY D. LARSON,  
LARSON & NIPE,  
Attorneys at Law, P.O. Box 277,  
Woonsocket, South Dakota 57385,  
appearing on behalf of Santel;

JODY ODEGAARD SMITH,  
GLOVER, HELSPER & RASMUSSEN,  
Attorneys at Law, 100 22nd Avenue, Suite 200,  
Brookings, South Dakota 57006,  
appearing on behalf of Brookings.

Witnesses	Direct	Cross	Redir	Recross
Mark Benton	967	970,974	976	978
Todd Hansen	980	983,987	987	--
Dan Davis	989	995,1011	1015	--
	1037	--	--	--
	1054	1056	--	--
Pamela Harrington	1043	1045	1053	--
		1050		
Gene Kroell	1091	1095,1102		
		1104,1118	1115	1118
WWC Exhibit Nos.	M	O	R	
1 - Testimony of Ron Williams	13	546	549	
2 - 11/18/03 Letter from ITC to Ron Williams	48	52	52	
3 - 11/21/03 Letter from ITC to Ron Williams	48	52	52	
4 - 12/19/03 Letter from Wilson to Heiberger	48	52	52	
5 - Routing Proposal by ITC	52	89	--	
6 - Minnesota Petition for Suspension	56	550	553	
7 - 10/18/03 Letter from Williams to Swiftel	314	314	315	
8 - 12/19/04 Letter from Williams to Reisenauer	449	--	--	
9 - Revised Costs	529	541	548	
10 - NECA Model End-User Charges	529	549	--	
11 - Survey of rural customers	529	541	549	
12 - NECA Letter with Model	539	541	549	
13 - 2004 Rural Youth Survey	691	700	701	

Witnesses	Direct	Cross	Redir	Recross
Jerry Heiberger	41	44,94 104	126	129
John DeWitte	135	141,205 216 454 464,472 -- 1085 1121 1089 1125	269 490 -- --	281,290 492 -- --
W. James Adkins	294	298,299 317	322	325
Marjorie Nowick	341	344,352	359	--
Randy Houdek	362	365,386 387	411	418
Jerry Reisenauer	427	430,439	445	448,451
Steven Watkins	495	508,510	526	--
Ron Williams	529	565,591 600,611 925 926 1019 1022 1058 1059 1129 1131	687 940 1035 -- 1134	705,713 940 -- -- --
Steven Oleson	739	741,750 751	754,756	755
Shane Ayres	757	759,760 761	--	--
Dennis Law	766	773,785 787	804,812	807
Don Snyders	813	814,819 819	822	822,823
Bryan Roth	824	826,831	--	--
Tom Bullock	833	865,886 890	907	913,917
Rod Bowar	943	950,956	962,966	964

## INDEX (Continued)

WWC Exhibit Nos.	M	O	R
14 - Qwest Comments	697	700	701
15 - Bullock companies cost comparisons	925	926	926
16 - Letter from Oak Hill Consulting	951	952	953
17 - Western Switch Upgrade Costs	1004	1010	1011
18 - Spreadsheets for today's companies	1018	1021	1021
19 - Revised Santel Cost Comparison	1129	1130	1130
ITC Exhibit Nos.	M	O	R
1 - Heiberger Direct	13	43	43
2 - Heiberger Rebuttal	13	43	43
3 - DeWitte Direct	13	140	140
4 - DeWitte Rebuttal	13	140	140
4A - DeWitte Supplemental Rebuttal	1082	1082	1083
4B - DeWitte Corrected to Rebuttal Supplemental	1082	1082	1083
5 - Petition	13	--	--
6 - Revised Heiberger Direct	1071	1072	1072
7 - Simmons Direct	1071	1072	1072
8 - Lohnes Direct	1071	1072	1072
9 - Letter dated 6/23/04	1078	1079	1079
Midcontinent Exhibit Nos.	M	O	R
1 - Unidentified	13	--	--

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<u>Midcontinent Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
2 - The Latest on Local Number Portability, by Heiberger	13	103	103
<u>Brookings Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Adkins Direct	293	297	298
2 - Adkins Rebuttal	293	297	298
3 - DeWitte Direct	327	463	464
<u>Stockholm Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Nowick Direct	327	344	344
2 - Nowick Rebuttal	327	344	344
3 - DeWitte Direct	327	463	464
<u>Venture Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Houdek Direct	362	365	365
2 - Houdek Rebuttal	362	365	365
3 - DeWitte Direct	362	463	464
4 - 6/18/04 Letter to Wise from Powell	414	416	418
<u>West River Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Reisenauer Direct	426	429	429
2 - Reisenauer Rebuttal	426	429	429
3 - DeWitte Direct	426	463	464
<u>SDTA Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Watkins Direct	327	496	497
2 - Watkins Rebuttal	327	496	497
3 - List of SDTA Members	592	638	638

## INDEX (Continued)

<u>SDTA Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
4 - ITC Interconnection Agreement	594	638	--
<u>Valley Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Oleson Direct	738	754	754
2 - Oleson Rebuttal	738	754	754
3 - Bullock Direct	738	865	865
<u>Faith Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Ayres Direct	757	759	759
2 - Ayres Rebuttal	757	759	759
3 - Bullock Direct	757	865	865
<u>Golden West Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Strandell Direct	765	768	768
2 - Strandell Rebuttal	765	768	768
3 - Bullock Direct	765	865	865
<u>Armour Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Law Direct	765	771	771
2 - Law Rebuttal	765	771	771
3 - Bullock Direct	765	865	865
<u>Sioux Valley Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Law Direct	765	772	772
2 - Law Rebuttal	765	772	772
3 - Bullock Direct	765	865	865

## INDEX (Continued)

<u>Bullock Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Bullock Direct	833	858	859
2 - Bullock Rebuttal	833	858	859
3 - Bullock Corrected	1081	1081	1081
<u>Alliance Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Snyders Direct	812	814	814
2 - Snyders Rebuttal	812	814	814
3 - Bullock Direct	812	865	865
<u>McCook Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Roth Direct	823	865	865
2 - Roth Rebuttal	823	825	826
<u>Tri-County Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Bullock Direct	833	865	865
<u>Western Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Davis Direct	989	994	994
<u>Davis Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Davis Direct, Multi-company	989	994	994
2 - Davis Rebuttal	989	994	994
<u>Midstate Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Benton Direct	989	970	970
2 - Benton Rebuttal	989	970	970
3 - Davis Direct	989	994	994

## INDEX (Continued)

<u>Beresford Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Hansen Direct	989	982	983
2 - Hansen Rebuttal	989	982	983
3 - Davis Direct	989	994	994
<u>Kennebec Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Bowar Direct	989	950	950
2 - Bowar Rebuttal	989	950	950
3 - Davis Direct	989	994	994
<u>RC Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Harrington Direct	1043	1045	1045
2 - Harrington Rebuttal	1043	1045	1045
3 - Davis Company-Specific Direct	1043	1055	1056
<u>Cheyenne River Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Williams Direct	1061	--	--
2 - Williams Rebuttal	1061	--	--
3 - Neff Direct	1061	--	--
4 - Neff Rebuttal	1061	--	--
5 - Costs document	1061	--	--
<u>Santel Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
1 - Kroell Direct Prefiled	1071	1094	1094
2 - DeWitte Direct Prefiled	1071	1124	1124
3 - DeWitte Rebuttal	1071	--	--

(Exhibit WWC 1 is marked for identification)  
(Exhibits ITC 1 through 5 are marked for identification)  
(Exhibits Midco 1 and 2 are marked for identification)

=====

TRANSCRIPT OF PROCEEDINGS, held in the  
above-entitled matter, at the State Capitol Building,  
500 East Capitol Avenue, Pierre, South Dakota, on the  
21st day of June through the 1st day of July 2004.

(Exhibits Golden West 1 - 3 are marked for identification)  
 (Exhibits Armour 1 - 3 are marked for identification)  
 (Exhibits Sioux Valley 1 - 3 are marked for identification)  
 MR. SMITH: Good morning, everyone.  
 The hearing is reconvened in the LNP Dockets, and  
 this morning we will begin with the Dockets that we  
 weren't able to begin with yesterday, and those are  
 TC04-045, Golden West Telecommunications, TC04-044,  
 Sioux Valley, and TC04-046, Armour, Bridgewater,  
 and Union.

Ms. Rogers.

MS. POLLMAN ROGERS: Thank you. I  
 believe that we will begin with Golden West, Vivian  
 Kadoka, which is Docket number TC04-045 if that's  
 acceptable. Is that the order?

MR. SMITH: I gave that order, but  
 you can take them in any order.

MR. WIECZOREK: Could I raise a  
 procedural issue? This witness will testify in  
 three Dockets. I would think it makes much more  
 sense if we just cover all three Dockets through  
 his first testimony so I don't have to  
 cross-examine him separately on every one of them  
 to build my record for each Docket.

MR. SMITH: That's fine. Is that

okay with you?

MS. POLLMAN ROGERS: Yes.

MR. SMITH: Are the other two  
 Alliance and Splitrock? No.

MS. POLLMAN ROGERS: Armour  
 Bridgewater-Canistota, which is TC04-046. Actually  
 Mr. Snyders would probably just as soon Denny  
 testify on his. And the third is Sioux Valley  
 Docket TC04-044.

MR. SMITH: Okay.

MR. WIECZOREK: Yeah. Those are the  
 three, and for the Commission to understand, I just  
 don't see how we can break them apart. I'm going  
 to ask him general questions we can apply to all  
 Dockets, and I think that would expedite things.

MR. SMITH: I agree.

MS. POLLMAN ROGERS: Okay. We will  
 call Dennis Law.

DENNIS LAW,  
 called as a witness, being first duly sworn in the  
 above cause, testified under oath as follows:

DIRECT EXAMINATION

BY MS. POLLMAN ROGERS:

Q Good morning.

A Good morning.

Q Please state your name and business address for the  
 record.

A My name is Dennis Law. My business address is 525 East  
 Fourth Street, Dell Rapids, South Dakota.

Q Denny, what is your occupation?

A I am a regional manager for Golden West  
 Telecommunications.

Q And would that include all of the companies we just  
 mentioned in all three Dockets?

A That would include all of those companies. I have  
 different titles depending on which company it is, but  
 that is my position.

Q Okay. I am going to have you look at, first of all,  
 what have been marked as Exhibits 1 and 2 -- I think  
 they're Golden West Exhibits 1 and 2. Do you have  
 those or do you see those?

A I have those.

Q And can you identify those?

A That would be the prefiled testimony in the Golden West  
 case, Golden West Vivian and Kadoka, the prefiled  
 testimony of George Strandell.

Q And George Strandell is whom?

A George Strandell is the CEO of Golden West  
 Telecommunications.

Q George was unable to be here today, and so you are in a

position to adopt this testimony and be cross-examined  
 on it; is that correct?

A Yes. That is correct.

MS. POLLMAN ROGERS: At this time I  
 would move that -- I guess I have to admit them  
 into the record first, don't I? I'm going to move  
 that Denny Law adopt the prefiled testimony of  
 George Strandell, both the direct testimony and the  
 rebuttal testimony of George Strandell.

MR. WIECZOREK: I have no objection.

MS. AILTS WIEST: No objection.

MR. SMITH: Are you in this one?

MR. KOENECKE: No. Just Sioux  
 Valley. That's the only one I'm in.

MR. COIT: No objection.

MR. SMITH: What were the numbers on  
 those?

MS. POLLMAN ROGERS: TC04-045.

MR. SMITH: What did you call the  
 exhibits?

MS. POLLMAN ROGERS: Golden West  
 Exhibit 1 and 2.

MR. SMITH: Okay. And those Golden  
 West Exhibits 1 and 2 are admitted.

Q Looking first at Golden West Exhibit 1, are you

1 familiar with this document?

2 A Yes, I am.

3 Q Have you had an opportunity to review it?

4 A Yes, I have.

5 Q Do you have any corrections or additions to Exhibit 1?

6 A I do on Exhibit 1 for Golden West. On page number 1,

7 line 17, correction to the access line counts and the

8 lifeline customers as described. In line 17 the

9 correct access line count is 17,704, and in reference

10 to the lifeline customers, the correct number is 2,033,

11 2,033.

12 I also have corrections on page 2, beginning

13 on line 4 in reference to Vivian Telephone Company

14 access lines. The correct access line number is

15 18,973, and in reference to the lifeline customers for

16 Vivian Telephone Company the correct number is 2,471.

17 My final correction is in line 10, also on

18 page 2 for Kadoka Telephone Company. The correct

19 access line number is 559, and the lifeline customers

20 is 52. And those are all of my corrections to that

21 exhibit.

22 Q Thank you. We have made a Motion, and I believe that's

23 been granted that you are in essence adopting the

24 testimony of George. If I asked you, Denny, the

25 questions contained in Golden West Exhibits 1 and 2

1 today, would your answers be the same with these

2 corrections?

3 A Yes, they would.

4 Q Could you briefly summarize your testimony in the

5 Golden West Docket?

6 A A brief summary of the testimony for Golden West would

7 be that we feel that the local number portability issue

8 in this Docket is a high-cost low demand avenue that we

9 are not in favor of implementing at this time.

10 Q Now I'm going to turn your attention to Exhibits Armour

11 1 and 2, which would be in Docket TC04-046. Can you

12 identify those, please.

13 A Yes, I can. That would be my direct prefiled testimony

14 and rebuttal testimony on behalf of Armour,

15 Bridgewater-Canistota and Union Telephone Companies.

16 Q And this is prefiled testimony of yourself, right?

17 A In my own name, yes.

18 Q Okay. Good. Are there any additions or corrections to

19 this testimony?

20 A There is one correction to the Exhibit 1, direct

21 prefiled testimony. There's no page numbers on my

22 file, but I am looking at the next to the last page.

23 Line number 10 says, "Effective December 13, 2007 is an

24 additional complication." The correction to that is it

25 should be December 31, 2007, not December 13. That is

1 my only correction to this testimony.

2 Q If I asked you the same questions contained in Armour

3 Exhibits 1 and 2 today, would your answers be the same?

4 A Yes, they would.

5 Q Would you briefly summarize your testimony in this

6 Docket?

7 A A brief summary of this testimony would be that Armour,

8 Union and Bridgewater-Canistota feel that the economic

9 burden of implementing local number portability greatly

10 outweighs any demand or consumer benefit for these

11 areas and is further complicated by the fact that

12 currently these three companies deploy a switching

13 technology which will in essence be obsolete in a few

14 years.

15 MS. POLLMAN ROGERS: I would offer

16 Armour Exhibits 1 and 2.

17 MR. WIECZOREK: No objection.

18 MS. AILTS WIEST: No objection.

19 MR. SMITH: Mr. Coit.

20 MR. COIT: No objection.

21 MR. SMITH: Armour's Exhibits 1 and

22 2 are admitted.

23 Q Finally, I would direct your attention to Sioux Valley

24 Exhibits 1 and 2. Can you identify those documents?

25 A That would be my direct prefiled testimony and rebuttal

1 testimony in the Docket concerning Sioux Valley

2 Telephone Company.

3 Q What's your position with Sioux Valley?

4 A My title at Sioux Valley Telephone is general manager.

5 Q Do you have any additions or corrections to this

6 testimony?

7 A I have no additions or corrections to this testimony.

8 Q If I asked you the questions contained in Exhibits 1

9 and 2 today, would your answers be the same?

10 A Yes, they would.

11 Q Could you briefly summarize your prefiled testimony in

12 the Sioux Valley Docket?

13 A Sioux Valley Telephone Company feels that the

14 implementation of local number portability would be an

15 undue economic burden on the company and its consumers

16 for virtually a minimal benefit.

17 MS. POLLMAN ROGERS: I would offer

18 Sioux Valley Exhibits 1 and 2.

19 MR. WIECZOREK: No objection.

20 MR. KOENECKE: No objection.

21 MS. AILTS WIEST: No objection.

22 MR. COIT: No objection.

23 MR. SMITH: Sioux Valley 1 and 2 are

24 admitted.

25 MS. POLLMAN ROGERS: I would tender

1 the witness for cross-examination on all three  
 2 Dockets.  
 3 MR. COIT: No questions.  
 4 MR. SMITH: Mr. Wieczorek.  
 5 MR. WIECZOREK: Thank you,  
 6 Mr. Smith, Commission.  
 7 CROSS-EXAMINATION  
 8 BY MR. WIECZOREK:  
 9 **Q** I'd like to touch on a couple of things just based on  
 10 your opening. First of all, you're testifying on  
 11 behalf of a number of companies here today; correct?  
 12 **A** Yes, I am.  
 13 **Q** There will be some questions I'll ask that will be  
 14 company-specific and I'll use the company name then and  
 15 just answer them for that company, if you would,  
 16 please. And I might ask some general questions as to  
 17 all the companies you're testifying for, and then I'll  
 18 be looking for the answer if it's true for all the  
 19 companies, all right?  
 20 **A** Fine.  
 21 **Q** If you're confused as to whether I'm asking about a  
 22 specific company or all the companies, just ask me and  
 23 I'll try to clarify.  
 24 **A** I will.  
 25 **Q** When you gave your opening statement concerning the

1 Docket 04-046, which has Armour Independent,  
 2 Bridgewater-Canistota Independent and Union Telephone  
 3 Company you stated there was an obsolete switch but you  
 4 stated that one of the switches was going to become  
 5 obsolete or the switching mechanism used but you only  
 6 referenced Armour, Bridgewater, and Canistota.  
 7 Is that switching issue also in existence for  
 8 Union?  
 9 **A** That switching existence would also be in existence for  
 10 Union Telephone Company, yes.  
 11 **Q** Now Golden West -- since you talked about Golden West  
 12 first, I'll talk about Golden West first. Golden  
 13 West -- or the Docket we refer to as the Golden West  
 14 Docket is actually three different companies; correct?  
 15 **A** Correct.  
 16 **Q** And all of those companies are -- their exchanges in  
 17 South Dakota are located west of the Missouri River; is  
 18 that correct?  
 19 **A** No, that is not correct.  
 20 **Q** Is there some exchanges Vivian has across the River?  
 21 **A** Vivian Telephone Company has several exchanges in  
 22 eastern South Dakota.  
 23 **Q** These exchanges, do you know how many square miles  
 24 these three companies cover all together?  
 25 **A** Approximately 23,000 square miles in South Dakota.

1 **Q** Okay. Would you agree with me that those three  
 2 companies' population density per square mile is much  
 3 lower than say your Sioux Valley exchange?  
 4 **A** I would agree.  
 5 **Q** And probably -- well, and even the Union Telephone  
 6 Company has -- the same question.  
 7 **A** I expect that's correct, yes.  
 8 **Q** Let's stay with the Golden West -- the companies that  
 9 are part of the Golden West Docket right now. Do you  
 10 understand how the cost analysis for transport has been  
 11 done by your cost expert in this case?  
 12 **A** I have been told the methodology. Can I review it on a  
 13 piece-by-piece basis? No. That is what we hired them  
 14 for.  
 15 **Q** The methodology as you understand it, could you  
 16 describe it for me?  
 17 **A** Could you be more specific in your question regarding  
 18 transport and methodology, please.  
 19 **Q** Well, how are you proposing to transport routing calls,  
 20 over what kind of lines?  
 21 **A** Transport to the specific wireless carrier involved?  
 22 **Q** Sure.  
 23 **A** The transport -- I will have to refer that question to  
 24 my cost consultant.  
 25 **Q** Okay. Your rebuttal testimony -- and I think the

1 rebuttal testimony in all three Dockets is virtually  
 2 identical. Would you agree with me?  
 3 **A** I believe so.  
 4 **Q** That talks about how there was an investigation done on  
 5 your different options. Besides the option being  
 6 presented today by your cost expert on behalf of all  
 7 three Dockets, has any of the companies reviewed a  
 8 different way to transport routed traffic?  
 9 **A** No, we have not.  
 10 **Q** Do you know how many T-1s your cost consultant is  
 11 recommending be installed for any of the companies?  
 12 **A** I do not know a specific number for any specific  
 13 company, no.  
 14 **Q** Do you know where he's recommending T-1s be installed  
 15 to and from?  
 16 **A** I do not.  
 17 **Q** I want to talk specifically about the Armour  
 18 Independent, Bridgewater-Canistota, and Union filing.  
 19 Do you have that in front of you, Exhibit 1, your  
 20 direct?  
 21 **A** I do.  
 22 **Q** If you'll turn to that first page, my pages aren't  
 23 numbered, but it's the first text page, it starts -- in  
 24 your response to the second question that starts on  
 25 line 6 you identify access lines and lifeline

1 customers. Do you see that?  
 2 A I do.  
 3 Q It just struck me that Union Telephone Company has  
 4 almost 1,600 access lines; correct?  
 5 A Correct.  
 6 Q And 38 lifeline customers. Do you see that?  
 7 A Yes.  
 8 Q And Armour with only 583 access lines has 33 lifeline  
 9 customers. Do you see that?  
 10 A Yes, I do.  
 11 Q You'd agree with me that the area that Union Telephone  
 12 Company covers is a higher income area?  
 13 A I have no knowledge of what the income difference would  
 14 be between Armour, Union, or Bridgewater-Canistota  
 15 service areas.  
 16 Q But you'd agree with me that the Union Telephone  
 17 Company has a far less number percentagewise of  
 18 lifelines?  
 19 A I would agree.  
 20 Q You're not representing to this Commission that all of  
 21 these companies -- meaning all the three Dockets you're  
 22 testifying in -- have the same demographic makeup are  
 23 you?  
 24 A No, I'm not.  
 25 Q You'd agree with me there's substantial differences

1 between the areas these companies serve?  
 2 A Specifically which substantial differences would you be  
 3 referring to?  
 4 Q Well, your areas closer to Sioux Falls we've already  
 5 talked about have a higher population per square mile;  
 6 correct?  
 7 A Certain segments of the company have different  
 8 densities, which would be the case whether it was  
 9 Golden West, Vivian, Sioux Valley. If you look at  
 10 individual exchanges or companies, the densities would  
 11 be different, yes.  
 12 Q And you're saying you don't have any information on  
 13 income on any of your companies' customers?  
 14 A Not on customers, no.  
 15 Q In this investigation you did on LNP that you've  
 16 represented was done in your prefiled testimony, did  
 17 you do any formal surveys of your clientele as to their  
 18 desire for LNP?  
 19 A We have not.  
 20 Q Let's talk about the Sioux Valley Docket specifically.  
 21 A Okay.  
 22 Q Does Sioux Valley have exchanges into Minnesota?  
 23 A Sioux Valley has access lines that are located within  
 24 Minnesota, but those access lines are served by a  
 25 switch which is located in South Dakota.

1 Q And I think we've already talked about the fact that  
 2 your rebuttal testimony in all of these Dockets is  
 3 virtually identical. I'm actually looking at the  
 4 Sioux Valley, but I'd like to ask you a question that  
 5 applies to all companies. I'm looking at your rebuttal  
 6 testimony of Sioux Valley. I've got page numbers on  
 7 that one. I thought that might be easier. Page 2.  
 8 A Okay.  
 9 Q The bottom of page 2, starting on line 22 you talk  
 10 about the routing methods reflected in the cost exhibit  
 11 attached to Sioux Valley's petition. And, again you'd  
 12 agree with me that -- well, let's back up. Is it your  
 13 understanding that -- I'm talking about your rebuttal.  
 14 A I am. Unfortunately, I pulled Armour's so I saw  
 15 Armour's and questioned what I had. One moment.  
 16 Q Sure. You've got a lot of prefiled testimony sitting  
 17 in front of you.  
 18 A Can I clarify, you were asking the bottom of page 2  
 19 beginning at line?  
 20 Q 22.  
 21 A I'm there. Thank you.  
 22 Q Do you see your answer there? And let me ask just a  
 23 question before we get into that. It's your  
 24 understanding that the cost methodology presented by  
 25 your cost experts is the same for all the companies

1 that you're testifying on behalf of here?  
 2 A It's my understanding that it is similar routing on a  
 3 per company basis, recognizing that each company may be  
 4 different in terms of direct connections or other  
 5 facilities already in place.  
 6 Q Okay. Yeah. You'd agree with me that there's  
 7 differences between every company that you're  
 8 testifying here?  
 9 A Yes, I would agree.  
 10 Q Now in your answer at the bottom then of page 2 using  
 11 your Sioux Valley answer it states that, "The routing  
 12 method reflected in the cost exhibit attached to  
 13 Sioux Valley's petitions are based on the current  
 14 routing arrangements that Sioux Valley has in place  
 15 with other carriers."  
 16 Okay. If that routing arrangement were  
 17 changed, you'd agree with me that you could look at a  
 18 different way of costing this service?  
 19 A Certainly there is a potential for other costing  
 20 mechanisms. We have not explored them.  
 21 Q On the next page -- and before I leave that testimony,  
 22 you'd agree with me that that testimony or that  
 23 statement's identical in every one of the rebuttal  
 24 testimonies except you just substitute the company  
 25 names; correct?

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1 A I would agree.

2 Q And if I asked you the same questions on -- every

3 question in every Docket you're testifying on, you'd

4 respond the same?

5 A I agree.

6 Q At the top of page 3 then, same rebuttal testimony

7 talks -- the first question there talks about Western

8 Wireless's routing proposal having impacts to

9 Sioux Valley beyond LNP.

10 And you answer, "Yes. It is my understanding

11 that Western Wireless's proposal would increase

12 Sioux Valley's cost." Do you see that?

13 A Yes, I do.

14 Q But you understand under Western Wireless's proposal

15 the cost increase would be less than what's being

16 proposed by your own cost analyst?

17 A I understand there are differences in opinion as to

18 what the costs actually are.

19 Q But that's not my question. My question is you've

20 reviewed Ron Williams' testimony; correct?

21 A I'm familiar with Mr. Williams' testimony.

22 Q It says in your rebuttal -- you've reviewed it?

23 A I have.

24 Q You understand the costs projected by Mr. Williams on

25 transport are much lower than what's been projected by

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1 your cost analyst; correct?

2 A I am aware of that.

3 Q So while it might increase your transport costs from

4 what they exist today, it would increase it less than

5 for you to use your cost analyst's proposal; correct?

6 A I believe Mr. Williams' analysis would bring that

7 about, yes.

8 Q Okay. And you've given the same answer in all three

9 rebuttals; correct?

10 A I would.

11 Q If I asked you the same question regarding the

12 testimony you've provided in all three rebuttals, you'd

13 respond the same; correct?

14 A Yes, I would.

15 Q Except for the cost information that you've provided --

16 or that your cost expert's going to be providing here

17 today, you're not providing any other cost information

18 on what LNP may -- or let me back up. You're not

19 providing any other -- let me start all over rather

20 than just back up.

21 You're not presenting any other potential

22 ways to provide for LNP besides what he's presenting

23 today.

24 A That is correct.

25 Q Going back specifically to the Armour -- and I

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1 apologize for bouncing around a bit. My notes bounce

2 around a little bit too.

3 The Armour exchange is not contiguous with

4 the Bridgewater Union exchange; correct?

5 A That's correct.

6 Q Neither of those exchanges are contiguous with Union

7 County; correct?

8 A Union County -- can I clarify? Given my general lack

9 of geography knowledge sometimes, Union County I

10 believe is Sioux City and that territory. Is that

11 Union County?

12 Q I apologize. I meant Union Telephone Company.

13 A No, they are not. Bridgewater-Canistota is not

14 contiguous, no.

15 Q And Armour's not contiguous with Bridgewater-Canistota;

16 correct?

17 A Correct.

18 Q Armour's is not contiguous with Union Telephone?

19 A That is correct.

20 Q And Bridgewater-Canistota is not contiguous with Union

21 Telephone?

22 A I would have to clarify that. There may be a small

23 section where they touch. I cannot recall off the top

24 of my head.

25 Q Do they share lines at all?

784

1 A Can you be more specific in regards to lines?

2 Q Do you run traffic from Bridgewater-Canistota exchanges

3 into your Union Telephone exchanges?

4 A There are certain umbilical links for switching and

5 signaling services that connect the Bridgewater

6 exchange or Bridgewater and Canistota switches to the

7 Union switches. The same would also be true for

8 Armour. In terms of lines it's a signaling connection

9 between the switches.

10 Q Okay. So you're not actually running phone lines or

11 calls over those signaling connections?

12 A Not over the signaling connections, no. However, the

13 Hartford switch -- each of the switches are able to

14 stand alone on their own basis, but there are certain

15 items that require them to go to processing for host

16 switching type scenarios, and the Union switching

17 located in Hartford provides that capability.

18 Q You understand that federal law provides for the

19 ability for all three of these companies to recover

20 their investment in LNP through an end-user surcharge;

21 correct?

22 A I am aware of that.

23 Q Okay. And if this Commission required you to

24 install -- your company to install LNP, you guys could

25 pay for that; correct?



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1 A In terms of the ability to write a check for it or --

2 Q You could finance it or --

3 A Yes.

4 MR. WIECZOREK: That's all I have.

5 Thank you.

6 MR. SMITH: Brett, are you --

7 MR. KOENECKE: I'm in the

8 Sioux Valley.

9 CROSS-EXAMINATION

10 BY MR. KOENECKE:

11 Q Good morning, Dennis. I'm Brett Koenecke, a lawyer

12 from Pierre representing Midcontinent. I've just got a

13 few questions, and they're relative to the Sioux Valley

14 Telephone Docket.

15 I've been reviewing the filings made in this

16 matter, and I think I understand that Sioux Valley

17 objects only to providing local number portability for

18 wireline to wireless modality. Am I correct in that?

19 A I don't know if that's an accurate statement to say we

20 object. Our filing is for a waiver of local number

21 portability requirements. I would have to review our

22 filing again to see if we make specific note of

23 wireless and wireline. I don't recall. I can look if

24 you would like, but I believe we are requesting a full

25 suspension of local number portability requirements.

786

1 Q Thank you. You'd agree with me that the only specific

2 references in your testimony refer to wireline to

3 wireless portability?

4 A Are you referring to my direct prefiled testimony?

5 Q I am.

6 A I do make a reference in my direct prefiled testimony

7 on the second to the last page that asks, "Since the

8 passage of the Telecom Act have any wireline carriers

9 ever requested from LNP from your company," and my

10 response was no.

11 Q That's correct. Thank you. Are you familiar with the

12 exhibits to Sioux Valley's responses to Western

13 Wireless's second set of discovery requests?

14 A To clarify, in responses of Petitioner Western

15 Wireless's second set of discovery requests, correct,

16 TCO4-044?

17 Q Right.

18 A Yes, I am.

19 Q Have you got them in front of you?

20 A Yes, I do.

21 Q Looking at Exhibit 1, can you explain to me what that

22 is, please.

23 A Exhibit 1 is -- the first page is correspondence

24 between myself and our consultant which contained an

25 attachment -- it was an e-mail which contains an

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1 attachment which was a quote from Sioux Valley

2 Telephone Company's switching vendor for the different

3 software requirements necessary, the cost of the

4 software requirements for LNP capability.

5 Q Sioux Valley would require that software in order to

6 offer local number portability?

7 A That is correct.

8 Q To either intra or intermodal LNP?

9 A That is correct.

10 Q Sioux Valley has no ability to offer LNP to wireline

11 modalities right now; is that correct?

12 A That is correct.

13 MR. KOENECKE: Thank you. I have

14 nothing further.

15 MR. SMITH: Ms. Wiest.

16 MS. AILTS WIEST: Thank you.

17 CROSS-EXAMINATION

18 BY MS. AILTS WIEST:

19 Q Could we start with 045, Golden West?

20 A Sure.

21 Q Could you tell me just your ranges of local rates for

22 that?

23 A Yes, I can. One moment, please. Would you like them

24 by company or just overall?

25 Q Just give me the ranges by company.

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1 A For Golden West Telecommunications Cooperative a

2 residential rate is \$10.95 per month. Can I also

3 clarify are you looking for business rates as well or

4 just residential?

5 Q Both.

6 A Business rates would be 21.95 per month. For Vivian

7 Telephone Company an average rate would be

8 approximately \$12.50 a month for a residential rate and

9 \$26 a month for a business rate. And for Kadoka

10 Telephone Company the residential rate would be \$9.65 a

11 month, and the business rate, \$16.70 per month.

12 And I would like to clarify that all of

13 those rates listed do not include any subscriber line

14 charge taxes, anything. Those are the basic dial tone

15 rates.

16 Q Thank you. And I believe you said, is this correct,

17 you have 30 wireless carriers authorized to serve your

18 area?

19 A To the best of our knowledge there are approximately

20 30 wireless carriers authorized or able to provide

21 service. We were not able to verify specifically which

22 carriers are offering in which areas.

23 Q And so you don't know which carriers are currently

24 serving any of your areas?

25 A We know of some, but I would not feel comfortable

1 saying it's an all inclusive list. Certainly we are  
 2 aware of several, yes.  
 3 **Q** Could you go to page 3, line 4?  
 4 **A** Would that be of the direct prefiled testimony?  
 5 **Q** Yes. I'm sorry. Your direct.  
 6 **A** Yes.  
 7 **Q** You state to the question, "Does your company have any  
 8 direct points of interconnection with wireless and/or  
 9 provide blocks," you say, "Yes."  
 10 Could you elaborate? Do you know how many  
 11 you have?  
 12 **A** I can give you an approximation. In one of my reply  
 13 testimonies we list some of the direct connections.  
 14 One moment, please. In terms of direct connections to  
 15 the best of our knowledge at this time Golden West has  
 16 direct -- Golden West Telecommunications Cooperative,  
 17 excuse me, has direct connections with Verizon  
 18 Wireless --  
 19 **Q** How many --  
 20 **A** -- in the Hot Springs exchange.  
 21 **Q** And how many? Just one? That one?  
 22 **A** Yes. That one in the Hot Springs exchange and that  
 23 would be with Verizon Wireless. Would you like me to  
 24 name by carriers or simply where the cities are  
 25 located?

1 **Q** Both.  
 2 **A** Golden West Telecommunications Cooperative also has a  
 3 direct connection with Verizon Wireless in Wall,  
 4 South Dakota. And then in the Martin exchange there is  
 5 a direct connection with Western Wireless.  
 6 **Q** Okay. And that's it?  
 7 **A** To the best of my knowledge.  
 8 **Q** And then -- I'm sorry.  
 9 **A** I'm sorry. There are also connections with Vivian as  
 10 well as Kadoka. Would you like me to go through those?  
 11 **Q** Right.  
 12 **A** For Vivian Telephone Company there are direct  
 13 connections and I'll list the exchanges and these first  
 14 four are all with Verizon. Custer, Murdo, Gregory, and  
 15 Winner. And then in the -- I'm sorry. Still in Vivian  
 16 Telephone Company with Western Wireless there are  
 17 direct connects in Custer and Winner.  
 18 And, finally, for Kadoka Telephone Company  
 19 there is a direct connection with Verizon Wireless.  
 20 **Q** And you don't provide any blocks --  
 21 **A** There is some thousands blocks being provided in  
 22 certain exchanges. I know in one of my documents I  
 23 have a list of which exchanges they are if you'd like,  
 24 I could list to you, but there are at least one  
 25 scenario where there is a type 1 connection.

1 **Q** Okay.  
 2 **A** I believe there may be more than one, but off the top  
 3 of my head I know of at least one.  
 4 **Q** Okay. Thank you. And if you could just go to your  
 5 rebuttal.  
 6 **A** Yes.  
 7 **Q** I believe on page 2, line 11 where you state that the  
 8 Interconnection Agreement you're not required to -- did  
 9 not agree to route traffic destined for Western  
 10 Wireless to the serving tandem. Is there any reason  
 11 why you couldn't do that?  
 12 **A** In reference to --  
 13 **Q** The Qwest tandem.  
 14 **A** But in reference to local number portability, or in  
 15 reference to the Interconnection Agreement that we  
 16 currently have in place?  
 17 **Q** In reference to local number portability.  
 18 **A** That we could not route it to the Qwest tandem?  
 19 **Q** Right.  
 20 **A** From a cost perspective I'm not sure that would be a  
 21 very cost-effective way to do that. In addition,  
 22 currently all trunks that we have with Qwest are  
 23 one-way.  
 24 **Q** How about from a technical? Could it be done?  
 25 **A** Leaving cost out as a factor, yes, technically we could

1 connect to a Qwest tandem.  
 2 **Q** Thank you. And did your company file separate cost  
 3 studies as required by the Commission at its  
 4 April 6, 2004 --  
 5 **A** File separate cost studies in terms --  
 6 **Q** For these companies.  
 7 **A** In terms of local number portability?  
 8 **Q** For these three companies.  
 9 **A** I believe we provided separate data for each company in  
 10 response to staff questions.  
 11 **Q** It wasn't provided in the Docket, though; correct? It  
 12 was Answers to Interrogatories from Western Wireless?  
 13 **A** I believe that is correct that we provided individual  
 14 company sheets that listed the cost data. I may have  
 15 been incorrect in terms of who we responded with that  
 16 data, but yes.  
 17 **Q** So there's nothing in the record with respect to the  
 18 separate costs; correct?  
 19 **A** Not to my knowledge.  
 20 **Q** And why were the companies consolidated for LNP cost  
 21 purposes? Could you explain the economies of scale  
 22 that you believe are involved?  
 23 **A** Sure. The companies are grouped together in a variety  
 24 of methods, both involving switching technologies and  
 25 platforms. For example, in the Golden West Vivian

1 Kadoka environment all of those companies use Nortel  
2 DMS switches.

3 Another reason those were grouped together  
4 was from a -- outside of the common platform, the  
5 geographic scope, the customer service areas, all of  
6 those reasons, but primarily from a switching platform  
7 they were lumped together. And in addition it actually  
8 drove our costs to provide LNP down probably. From a  
9 cost perspective in the software that we purchased from  
10 our vendor they allowed us to lump those companies  
11 together for the purchase at one time. That would be  
12 for Golden West Vivian and Kadoka.

13 In terms of Union, Armour,  
14 Bridgewater-Canistota, it's somewhat similar. Those  
15 three companies use the same switching platform, which  
16 is the Mytel switches, which has some separate issues  
17 all of their own. But it uses the Mytel switches. At  
18 the same time, customer service, currently all of the  
19 customer service for the Union, Armour, and  
20 Bridgewater-Canistota operating companies all occur out  
21 of the Hartford office. So it just made sense to  
22 consolidate all of those together.

23 Probably finally in terms of Union, Armour,  
24 and Bridgewater-Canistota hypothetically one domino  
25 tips it over, which is if the Commission were to

1 certain carriers that do not serve on that list that do  
2 not serve all of Sioux Valley's territory.

3 **Q** But they all provide some service in some area?

4 **A** Depending upon which location you're in, in Sioux  
5 Valley you may be able to receive one or more of the  
6 five.

7 **Q** Okay. Thank you. And then let's just go to Armour,  
8 Bridgewater-Canistota, Union. And if you could, just  
9 tell me your local rate for that, those companies.

10 **A** I'll start with Armour. For Armour the residential  
11 rate is \$9 per month, the business rate is \$14 per  
12 month. For Bridgewater-Canistota, the residential rate  
13 is \$12 per month, and the business rate is \$26.60 per  
14 month. And for Union Telephone Company the residential  
15 rate is \$12.40 a month, and the business rate is \$16.50  
16 a month.

17 And, again, I would clarify those do not  
18 include any additional charges. That is simply the  
19 dial tone cost.

20 **Q** Similarly on page 2 of your direct testimony you list  
21 five wireless carriers. Those are carriers currently  
22 serving your area but not necessarily all areas?

23 **A** That would be correct.

24 **Q** And then I just had a couple of questions on your -- if  
25 you could explain further the situation with the Mytel

1 hypothetically order Armour Independent Telephone  
2 Company to implement local number portability, it would  
3 require all three of those companies due to their  
4 switching architecture today to purchase the hardware  
5 and software necessary to provide LNP, even if  
6 hypothetically Union and Bridgewater-Canistota were not  
7 ordered to provide it.

8 **Q** Okay. Thank you. Can we go on to Sioux Valley,  
9 please. And, again, could you give me your current  
10 local rate for that?

11 **A** Average rate spread amongst the exchanges for  
12 Sioux Valley Telephone Company, the residential line is  
13 approximately \$16.50, and a business line average rate  
14 could be approximately \$21.

15 **Q** Thank you. Could you please go to page 2 of your  
16 direct testimony. There aren't any numbers on the  
17 lines or the pages, I guess. When you state what is  
18 the number of wireless carriers providing service --  
19 and you list five carriers; is that correct?

20 **A** Correct.

21 **Q** Is it your understanding that all five carriers are  
22 currently providing service throughout the Sioux Valley  
23 area?

24 **A** No. It's my understanding that all five of those  
25 carriers serve portions or perhaps all, but there are

1 switch, I believe the testimony is that it will be --  
2 support for the switch will be discontinued by 2007.  
3 And so what will you have to do at that time or prior  
4 to that time?

5 **A** Either at that time or prior to that point in time we  
6 will have to make a decision as to the future of that  
7 switching platform.

8 **Q** Uh-huh.

9 **A** Historically we cut telephone companies, certainly  
10 local telephone companies in this area -- if a vendor  
11 says they are no longer going to support a product for  
12 something as important in our network as our switches,  
13 typically we do not remain with that product and are  
14 forced to seek alternatives or different solutions.

15 I anticipate that prior to the support  
16 expiring for the Mytel switches that we will have come  
17 up with a different switching solution. There are  
18 several solutions available for that, whether it's  
19 complete replacement of those switches or a shift of  
20 where those lines come from. I mean, we'll look at  
21 every opportunity or a different way to look at it.

22 But in our minds the life cycle on those  
23 switches probably at this point with the knowledge we  
24 have from the manufacturer will probably sunset  
25 December 31, 2007.

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1 MS. ALTS WIEST: Thank you. That's  
 2 all I have.  
 3 MR. SMITH: Do the Commissioners  
 4 have any?  
 5 COMMISSIONER BURG: I don't have  
 6 any.  
 7 VICE CHAIR HANSON: No.  
 8 CHAIRMAN SAHR: I have a couple.  
 9 Good morning, Mr. Law.  
 10 THE WITNESS: Good morning.  
 11 CHAIRMAN SAHR: Yesterday  
 12 Mr. Williams talked a little bit about his thoughts  
 13 on the question of cost-causers and perhaps maybe  
 14 more of a policy discussion of who should and  
 15 shouldn't be bearing costs and kind of what the  
 16 impact is on providers.  
 17 Were you here for that conversation?  
 18 THE WITNESS: Yes. I was here.  
 19 CHAIRMAN SAHR: Do you have any  
 20 comments on that?  
 21 THE WITNESS: Only that it's a  
 22 unique way to come up with a variety of  
 23 different -- trying to apply costs. And in my own  
 24 mind I have often wondered if instead of dividing  
 25 the cost of local number portability divided by the

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1 total number in our case of the access lines in our  
 2 serving area, if you actually divided by the number  
 3 of potential ports you thought you were going to  
 4 have, regardless of whether they were part of  
 5 Mr. Williams' testimony or whether they were  
 6 developed by the local telephone companies, you'd  
 7 certainly come up with an interesting number.  
 8 If it was a couple hundred thousand dollars to  
 9 implement local number portability and there were  
 10 400 ports, it certainly puts a different  
 11 perspective on a cost per port basis.  
 12 CHAIRMAN SAHR: Thank you. And have  
 13 you ever done any -- do you know if any of the  
 14 providers that you're familiar with have done any  
 15 sort of cost studies on the impact of additional  
 16 charges on consumer bills? And I guess what I'm  
 17 getting at is, you know, at what point on the bill  
 18 does it become unduly burdensome?  
 19 I'll even let you just generally comment on  
 20 that, and if you know any particulars on any  
 21 studies or surveys, I'd appreciate that.  
 22 THE WITNESS: I have no formal  
 23 studies or surveys that I could point to that -- I  
 24 could only offer an opinion as to unduly burdensome  
 25 as everyone knows is a very gray area. Speaking

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1 from experience, and I'm confident the Commission  
 2 hears the same things, whenever there is any  
 3 movement in a customer's bill it causes some type  
 4 of response.  
 5 Typically if the movement is upward or  
 6 increased, it causes a greater response than if it  
 7 is a decrease, unfortunately. But any movement,  
 8 whether it is cents, dollars, or any other metric  
 9 typically causes a reaction to phone customers.  
 10 CHAIRMAN SAHR: And then my final  
 11 question or questions, I'd like to ask about  
 12 interim number portability. And this is something  
 13 we heard a little bit of testimony on on Monday  
 14 where there is the ability in an intramodal setting  
 15 to basically do what I would term, perhaps  
 16 inaccurately, call-forwarding.  
 17 THE WITNESS: I'm aware of that.  
 18 CHAIRMAN SAHR: Are you familiar  
 19 with that?  
 20 THE WITNESS: I'm aware of it. I'm  
 21 not familiar with it from the perspective of none  
 22 of the Golden West Companies currently are involved  
 23 in that type of application in porting of any  
 24 numbers to a competitive provider.  
 25 CHAIRMAN SAHR: And I believe it was

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1 Mr. Simmons from Midcontinent had testified that  
 2 that would be a low cost or virtually no cost  
 3 alternative on a wireline to wireline porting  
 4 basis.  
 5 Do you have any comments about that?  
 6 MS. POLLMAN ROGERS: Excuse me.  
 7 Perhaps clarify for the benefit of this witness, I  
 8 believe that was in the other Docket that that  
 9 testimony was presented, not in the LNP Docket but  
 10 the first Docket, and I don't know that this  
 11 witness is aware of that.  
 12 CHAIRMAN SAHR: Well, he can say I  
 13 don't know anything about wireline to wireline  
 14 porting, and that's fine, and that will get him off  
 15 the stand. But the question I have is it's kind of  
 16 a follow-up to Mr. Koenecke's earlier question is  
 17 I'm just curious because we heard on Monday that  
 18 this is an option and apparently a fairly low-cost  
 19 option to do wireline to wireline porting, and I'm  
 20 just curious to see if that is an available option.  
 21 And if he doesn't know I'm -- and I should  
 22 also say that he may not have had -- I realize he  
 23 may not have had a chance to review the testimony,  
 24 but at the same time it does seem like it might be  
 25 an apples to apples type question as long as he has

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1 some knowledge base for it.

2 THE WITNESS: I don't have

3 sufficient knowledge base, Commissioner, to give a

4 response to that question.

5 CHAIRMAN SAHR: And what they had

6 talked about there is -- and this may help, and if

7 it doesn't, then I will move on. But what they had

8 talked about is that interim number portability is

9 most commonly provisioned using the remote

10 call-forwarding method, RCF, which requires the

11 customer's directory number to be retained in the

12 original provider's switch and a second shadow

13 number to be assigned in the requester's switch.

14 Does that help at all?

15 THE WITNESS: It does help some. My

16 concern with that is from a switching perspective

17 please recognize I will preface my testimony by

18 saying my title is general manager, not system

19 engineer, switching technician, or any other from

20 that perspective, but I will tell you my concern of

21 that from a switching perspective is the use of

22 ports on our network.

23 I'll say ours. It could be any of the

24 companies I'm representing today. In a

25 call-forwarding basis there's a question on that as

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1 to how that would scale from a growth perspective.

2 And my concern is this, and that is say you port

3 428-5000, pick a Dell Rapids, South Dakota number.

4 Once that number is ported to me -- once that

5 number is ported, if all I am doing is remote

6 call-forwarding that number to a different

7 provider, every time anyone outside of my

8 network -- it could be somebody in Omaha calling

9 428-5000.

10 What they will first do is that number will

11 get pointed to me, in essence, and then I would end

12 up ultimately forwarding that call to the required

13 LNP provider -- I'm sorry. The intramodal provider

14 in my system, tying up switch ports, things along

15 that line.

16 What type of impact that has, I cannot address

17 that from a cost perspective. It strikes me as a

18 possibility for what I would term to be a band-aid

19 solution. I don't mean any disrespect by that, but

20 a band-aid solution. But it would require further

21 study.

22 CHAIRMAN SAHR: Thank you. I

23 appreciate the comments and working with me through

24 that issue. And I may see if your cost consultant

25 has any thoughts on that as well. Because I'm

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1 curious to see, it does appear to be labeled as an

2 interim solution in its title itself so I

3 appreciate your characterizations and help on that

4 issue. Thank you.

5 MR. SMITH: Mr. Law, I have a couple

6 of questions. Do any of these companies have any

7 extended area of service relationships in the

8 Sioux Falls or Rapid City areas?

9 THE WITNESS: Specifically to those

10 exchanges, the Sioux Falls and the Rapid City

11 exchange, I am not aware in Golden West. I do not

12 believe there is EAS from the Golden West -- any of

13 the Golden West exchanges with the perhaps possible

14 exception of New Underwood. And I could check that

15 if you'd like, but that would be the only Golden

16 West exchange that could potentially have EAS.

17 In the case of Sioux Falls it is somewhat of a

18 different application. In the Union Telephone

19 Company environment there is an EAS agreement

20 between Union Telephone Company for the Hartford

21 and the Wall Lake exchanges with Qwest. And I'd

22 like to emphasize that the agreement is with Qwest

23 for EAS to the Sioux Falls exchange. So that is

24 one.

25 In the Sioux Valley Telephone Company

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1 environment three communities are able to call

2 the -- to call Qwest. That would be Colton,

3 Dell Rapids, and Valley Springs. And in each of

4 those arrangements Sioux Valley Telephone Company

5 has an EAS agreement with Qwest.

6 MR. SMITH: Thank you. Ms. Rogers.

7 REDIRECT EXAMINATION

8 BY MS. POLLMAN ROGERS:

9 Q Just a couple of things on redirect. There were some

10 questions I think that you were asked about substantial

11 differences between the companies with regard to I

12 think the question maybe had to do with density or

13 density per line and things like that.

14 All of the companies on behalf of whom you're

15 testifying today are classified as rural under the

16 '96 Act, aren't they?

17 A Correct.

18 Q You were asked about some of your testimony concerning

19 the cost. Deployment of LNP would increase the cost to

20 all of your companies?

21 A That is correct.

22 Q And, in fact, with regard to those companies as it

23 relates to the implementing of Western Wireless's

24 transport routing proposal, you're aware of what I'm

25 talking about there?

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1 A I'm familiar.  
 2 Q And specifically in relation to that, why would you say  
 3 that that increases your company's costs?  
 4 A Is your question how does Western Wireless's proposal  
 5 for LNP increase any respective company's cost?  
 6 Q Yes.  
 7 A In comparison to the costs that we have identified in  
 8 local number portability?  
 9 Q Well, I'm referring to the discussion regarding the  
 10 cost to your companies as it relates to implementing  
 11 the Western Wireless transport routing proposal. Even  
 12 under their proposal it would increase your company's  
 13 cost --  
 14 A All costs would increase. Western Wireless's cost  
 15 differs. Specifically in respect to the transport  
 16 there are some large differences between what the cost  
 17 may be of the transport, while a large item is not the  
 18 only item that would increase our cost.  
 19 Q And, in fact, under Western Wireless's proposal they  
 20 would have your companies assuming a greater  
 21 responsibility for the transport; isn't that --  
 22 MR. WIECZOREK: I'd object as  
 23 leading.  
 24 MR. SMITH: Overruled.  
 25 A That is correct.

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1 Q I believe one of the Commissioners asked you about --  
 2 or someone in this discussion asked you about the  
 3 demand for local number portability. What has been  
 4 your experience with regard to demand by your customers  
 5 for LNP?  
 6 A I have received no requests from any customers from the  
 7 affected companies for local number portability.  
 8 Q And there was also some discussion -- I think you were  
 9 present when Western Wireless's expert witness  
 10 discussed the possibility of, just as an example, a \$2  
 11 LNP suspension threshold. Do you remember that  
 12 discussion?  
 13 A I do.  
 14 Q As a percentage, even \$2 could be a substantial  
 15 increase at least for some of your local rates.  
 16 Wouldn't that be true?  
 17 A I think as a percentage it's a substantial increase for  
 18 any of our local rates.  
 19 Q Okay.  
 20 MS. POLLMAN ROGERS: That's all.  
 21 Thank you.  
 22 MR. SMITH: Mr. Coit.  
 23 MR. COIT: No questions.  
 24 MR. SMITH: Mr. Wieczorek.  
 25 MR. WIECZOREK: A couple follow-up

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1 questions.  
 2 RE-CROSS-EXAMINATION  
 3 BY MR. WIECZOREK:  
 4 Q Ms. Rogers asked you about the transport costs under  
 5 Western Wireless's plan. You understand the transport  
 6 costs as reflected under Western Wireless's proposal  
 7 are less than the transport costs as projected by your  
 8 own cost analysis under his proposal; correct?  
 9 A I am aware that the number that Western Wireless has  
 10 reflected is a lower number, but how they came about  
 11 those costs, I cannot testify to that.  
 12 Q So to the extent you just answered your question saying  
 13 it's going to increase your transport costs, you don't  
 14 even know that.  
 15 A Western Wireless has reflected a significantly lower  
 16 number for transport than reflected in many, if not  
 17 all. I can't clarify for all of the filed companies.  
 18 But based on the responses I heard in testimony  
 19 yesterday from Mr. Williams, it's my understanding that  
 20 the telephone -- local exchange carrier telephone  
 21 companies would be required to carry more of the burden  
 22 back to what I will term to be the Qwest tandem.  
 23 Q Right. But you wouldn't have to spend the transport  
 24 costs that your cost analyst has projected. You  
 25 understand that, don't you?

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1 A I think that is a point of debate.  
 2 Q Going back to the Armour Bridgewater Union companies,  
 3 you talk about the Mytel switch.  
 4 A Yes.  
 5 Q Considering that you believe the switch is going to  
 6 have no service in 2007, when are you looking at  
 7 upgrading those switches?  
 8 A Sometime prior to -- upgrading perhaps by means  
 9 of replacement would occur sometime prior to  
 10 December 31, 2007.  
 11 Q Okay. When integrating that upgrade would providing  
 12 LNP be a good use of your money?  
 13 A Could you repeat that question, please.  
 14 Q Well, you could upgrade that switch and buy the whole  
 15 software package. Wouldn't that be a good use of your  
 16 money, buy it all at one time?  
 17 A I anticipate whatever switching platform we choose to  
 18 provide it will have a number of features and sets to  
 19 it, of which local number portability may be one of  
 20 them.  
 21 Q You talked about the advantages of scale, but do you  
 22 understand that your cost expert has not scaled your  
 23 management costs across all the companies you're  
 24 testifying for?  
 25 A I can't address his specific cost on that item, no.

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1 Q Well, you have a job -- you have job positions with all  
2 of these companies you're testifying for at some level?  
3 A That is correct.  
4 Q Well, if you're an employee, essentially, of all of  
5 these different companies on some level, why wouldn't  
6 you scale those internal business procedure charges  
7 across all of your companies and not just these  
8 pockets?  
9 A Because part of the reason that we clustered the  
10 responses or the questions -- why we clustered the  
11 Dockets together for several of the operating companies  
12 is that each of the operating companies has unique  
13 environments, as I discussed earlier, whether it be  
14 Union, Armour, Bridgewater, or Golden West Vivian and  
15 Kadoka. Consequently many of those items are not  
16 shareable across all common boundary lines and be would  
17 applied to specific companies.  
18 Q But your management shares across all boundaries;  
19 right?  
20 A Assuming I did not have to spend any additional hours  
21 trying to work on different options for respective  
22 companies, that would be true.  
23 Q Right. But when you get trained as a manager to  
24 implement LNP for Armour you don't have to be retrained  
25 for Sioux Valley, do you?

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1 A Depending on the application and how that environment  
2 works, potentially, but not in all cases.  
3 Q Have you looked into that at all?  
4 A Have I looked into what?  
5 Q Whether you would need to be trained separately for  
6 every company.  
7 A Depending --  
8 Q Have you looked into that?  
9 A No, we have not.  
10 Q You said something to the effect of there's been no  
11 demand but did you know that your own cost expert has  
12 estimated 1,200 ports in the first five years for  
13 Golden West?  
14 A I'm familiar with that number.  
15 Q And has estimated 10 percent of your lines out of  
16 Golden -- out of the Armour Bridgewater port in the  
17 first five years.  
18 A I was not aware that was the specific number, but if  
19 that's what he used, the consultants used, that's fine.  
20 Q Okay. And you also projected 10 percent ports in the  
21 first five years of your lines out of Sioux Valley.  
22 A I wasn't aware of the specific number, but I wouldn't  
23 dispute that.  
24 Q And then there's a question about cost-causer issues.  
25 A Yes.

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1 Q You know that the people that are Qwest customers have  
2 paid their costs for LNP even if they haven't  
3 transported; correct?  
4 MS. POLLMAN ROGERS: I'm going to  
5 object to this as being beyond the scope of  
6 redirect.  
7 MR. SMITH: Overruled.  
8 A Could you repeat your question, please.  
9 Q Sure. You understand that all Qwest customers have  
10 been paying for LNP costs already?  
11 A I'm aware there was an LNP charge on Qwest bills, but I  
12 don't receive a Qwest bill so I don't know specifically  
13 but I'm aware there was a charge.  
14 Q From listening to Mr. Williams yesterday you understand  
15 that cell phone users are paying for LNP surcharges.  
16 A I am aware of that.  
17 MR. WIECZOREK: That's all I have.  
18 MR. SMITH: Are there any further  
19 questions?  
20 MR. KOENECKE: No.  
21 MS. AILTS WIEST: No.  
22 MS. POLLMAN ROGERS: I have just one  
23 clarifying question. I think we can take care of  
24 the concern -- or the questions concerning  
25 transport.

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REDIRECT EXAMINATION

BY MS. POLLMAN ROGERS:

1 Q My question to you is, Denny, if your company's  
2 responsibilities for transport costs -- if ordered to  
3 implement LNP -- increase, that would increase your  
4 company's costs; correct?  
5 A Yes.  
6 MS. POLLMAN ROGERS: That's all.  
7 Thank you.  
8 MR. WIECZOREK: Nothing further.  
9 MR. SMITH: You're excused, Mr. Law.  
10 Call your next witness.  
11 (Discussion off the record)  
12 MR. SMITH: Ms. Rogers, you may call  
13 your next witness.  
14 MS. POLLMAN ROGERS: Thank you. In  
15 the matter of Alliance Cooperative, Inc. and  
16 Splitrock Properties, Inc., which is TC04-045, we  
17 would call Don Snyders to the stand.  
18 (Exhibits Alliance 1 through 3 are marked for identification)  
19 DON SNYDERS,  
20 called as a witness, being first duly sworn in the  
21 above cause, testified under oath as follows:  
22  
23  
24  
25

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1 DIRECT EXAMINATION

2 BY MS. POLLMAN ROGERS:

3 Q Good morning.

4 A Good morning.

5 Q Would you please state your name and address for the

6 record.

7 A My name is Don Snyders. My business address is

8 612 Third Street, Garretson, South Dakota.

9 Q What is your occupation?

10 A I'm the general manager of Alliance Communications and

11 Splitrock Properties.

12 Q You are the Petitioner in this Docket on behalf of your

13 companies; is that correct?

14 A That's correct.

15 Q And in the course of this Docket did you file prefiled

16 testimony, both direct and rebuttal?

17 A Yes, I did.

18 Q I would ask you to look at Alliance Exhibits 1 and 2.

19 Is that the prefiled testimony you filed in this

20 Docket?

21 A Yes, it is.

22 Q Do you have any additions or corrections to the

23 testimony?

24 A No, I do not.

25 Q If I asked you the questions in the Exhibits 1 and 2

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1 today, would your answers be the same?

2 A Yes, they would.

3 Q Would you please provide a brief summary of your

4 prefiled testimony?

5 A As far as my testimony, we feel that because of the low

6 customer demand and high cost of LNP we are not

7 interested at this time in implementing LNP.

8 MS. POLLMAN ROGERS: I would offer

9 Alliance Exhibits 1 and 2.

10 MR. WIECZOREK: No objections.

11 MR. COIT: No objections.

12 MS. AILTS WIEST: No objection.

13 MR. KOENECKE: No objection.

14 MR. SMITH: Alliance Exhibits 1 and

15 2 are admitted.

16 MS. POLLMAN ROGERS: Tender the

17 witness for cross-examination.

18 MR. COIT: No questions.

19 MR. SMITH: Mr. Wieczorek.

20 MR. WIECZOREK: Thank you.

21 CROSS-EXAMINATION

22 BY MR. WIECZOREK:

23 Q Mr. Snyders, do you have a host switch then in

24 Garretson?

25 A Our host switch is in Brandon.

815

1 Q Brandon. Okay. Which of the two companies is that the

2 host switch for?

3 A That's the host switch -- actually it's a networking

4 for Splitrock Properties and Alliance so the remotes --

5 or the satellite offices of the two exchanges and

6 properties actually network with the host switch in

7 Brandon.

8 Q Okay. And then do you have a host switch in Crooks

9 too?

10 A Actually we have the host switch is in Brandon and in

11 Baltic. The tandem switches, if you're referring to

12 that, are in Crooks and Garretson.

13 Q When you say tandem switch, could you describe which --

14 is that your -- describe what you mean when you say

15 tandem switch.

16 A The tandem switch -- the host switch is a satellite

17 host remote situation. The tandem switch is where you

18 actually have the traffic going to that exchange.

19 Q Okay. Do you have any cell companies that connect into

20 that tandem switch?

21 A No, we do not.

22 Q There's been a cost expert's testimony prefiled that

23 hasn't been admitted yet. Do you understand or can you

24 explain how your cost expert came up with his numbers

25 for Alliance and Splitrock?

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1 A I would defer all the costs to Mr. Bullock.

2 Q Your testimony talks about how you guys investigated

3 LNP.

4 A True.

5 Q Meaning Alliance and Splitrock. Did you do an analysis

6 of any other routing proposals besides the one that's

7 going to be presented here by Mr. Bullock?

8 A No, we did not.

9 Q You did no cost studies on any other routing?

10 A No.

11 Q And you understand there are other routing options?

12 A Yes, I do.

13 Q And you're not presenting any demographic information

14 based on the customer base of either of your companies

15 today, are you?

16 A No, we're not.

17 Q And you have not done independently or internally an

18 actual scientific survey of LNP demand for either of

19 your companies, have you?

20 A We have not done a survey.

21 Q You understand that federal law allows you the ability

22 to capture or to be reimbursed through an end-user fee

23 your costs associated with an LNP?

24 A Yes, I do.

25 Q Would you turn to your rebuttal testimony, please.



1 Page 3, the top of page 3, please. You'll see there  
 2 where you state, "The routing methods reflected in the  
 3 cost exhibit attached to Alliance's petition are based  
 4 on the current routing arrangements that Alliance has  
 5 in place with other carriers."  
 6 You would agree with me -- or do I understand  
 7 that statement to mean that you only looked at routing  
 8 methods that were available based on current  
 9 contractual relations?  
 10 A Again, you know, I would defer that to our cost  
 11 consultant. I believe the only routing situations that  
 12 he looked at was current routing that we have today.  
 13 Q You receive traffic from CMRS carriers through Qwest;  
 14 is that correct?  
 15 A That's correct.  
 16 Q And is that a two-way or one-way?  
 17 A That's one-way.  
 18 Q Did it used to be a two-way before SDN?  
 19 A Boy, pre-SDN, that's a while back. To be honest with  
 20 you, I don't remember.  
 21 Q Okay. Do you know of any -- do you know how long it  
 22 would take to convert that to a two-way?  
 23 A I do not.  
 24 Q Defer that to your cost expert?  
 25 A I've got to believe it would take some time to do that.

1 As far as how long, I do not know.  
 2 Q Are you still on page 3 of your rebuttal testimony?  
 3 A Yep.  
 4 Q Starting at line 7, your answer talks about the Western  
 5 Wireless proposal would increase Alliance's costs. Do  
 6 you see that?  
 7 A Yes, I do.  
 8 Q You understand that the Western Wireless proposal is  
 9 actually cheaper than the proposal set forth by your  
 10 cost analyst?  
 11 A I understand that the numbers are less than what was  
 12 presented by our cost analyst, yes.  
 13 Q Just so we're straight on this, when you talk about an  
 14 increase in your cost, you mean in reference to your  
 15 cost today before LNP.  
 16 A There would be -- yes. There would be an increase in  
 17 cost for transport.  
 18 Q You're not sitting here testifying to the Commission  
 19 that your proposed costs are less than what Western  
 20 Wireless has said you can do it for?  
 21 A Can you repeat that question.  
 22 Q You're not sitting here telling the Commission that the  
 23 cost analysis done -- the cost proposal done by your  
 24 cost analyst is less than what Western Wireless has  
 25 said it would cost if you do it their way.

1 A Under the current information that would be accurate.  
 2 Q Okay. You're not -- Western Wireless would be less.  
 3 A With the data that was submitted by Western Wireless,  
 4 that would be true.  
 5 Q And you don't have any information to challenge that  
 6 data, do you?  
 7 A No, I do not.  
 8 MR. WIECZOREK: That's all I have.  
 9 MR. SMITH: Mr. Koenecke.  
 10 CROSS-EXAMINATION  
 11 BY MR. KOENECKE:  
 12 Q Good morning. Brett Koenecke. Do I understand that  
 13 Alliance and Splitrock are unable to provide local  
 14 number portability?  
 15 A That would be correct.  
 16 Q At this point to either wireless or wireline?  
 17 A That would be true.  
 18 MR. KOENECKE: I have nothing  
 19 further.  
 20 MR. SMITH: Ms. Wiest.  
 21 CROSS-EXAMINATION  
 22 BY MS. AILTS WIEST:  
 23 Q Mr. Snyders, what is your current local rate for both  
 24 companies?  
 25 A For Alliance I'll give you a range, if that's okay.

1 Q Sure.  
 2 A The range is \$8 to 15.70. That's for residential. And  
 3 then for Splitrock Properties it's 12.70 to 15.70. And  
 4 the business rates would be from 13 to 26, and for  
 5 Splitrock Properties it's 26 to 29.  
 6 Q Thank you. Do you know how many wireless carriers have  
 7 the authority to serve your area?  
 8 A It depends on the area. As far as authority, I've got  
 9 to believe there's quite a few. I don't know exactly  
 10 how many. It could probably be around the Sioux Falls  
 11 area in the 20s.  
 12 Q In the 20s? And that was authority to serve. Do you  
 13 have any idea how many wireless carriers are currently  
 14 serving your area?  
 15 A Offhand it would probably be -- I can probably come up  
 16 with six or seven.  
 17 Q So there would be a number of carriers that have the  
 18 authority to serve but are not currently serving.  
 19 Would that be correct?  
 20 A I know there's a lot of licenses out there that haven't  
 21 been implemented. Again, that would be a guess on my  
 22 part.  
 23 Q Okay. And did your company file separate cost studies,  
 24 do you know, for your two companies?  
 25 A No, we did not.

1 Q Could you explain why the companies were consolidated  
2 for LNP cost purposes?  
3 A Pretty much for economies of scale. We have the common  
4 employees, the networking between the satellite offices  
5 and the host. We have, you know, intracompany  
6 networking. It just made sense on our part to combine  
7 them into one.  
8 MS. AILTS WIEST: That's all I have.  
9 Thank you.  
10 MR. SMITH: Do the Commissioners  
11 have any questions?  
12 CHAIRMAN SAHR: Good morning,  
13 Mr. Snyders.  
14 THE WITNESS: Good morning.  
15 CHAIRMAN SAHR: Would you have  
16 interest in participating in some type of working  
17 group looking at potential lower cost solutions to  
18 implement LNP?  
19 THE WITNESS: If this is where that  
20 would lead to, I would participate.  
21 CHAIRMAN SAHR: And do you have any  
22 suggestions on what type of people might  
23 participate in that type of working group?  
24 THE WITNESS: Without giving that a  
25 lot of thought, probably not at this time.

1 CHAIRMAN SAHR: Thank you.  
2 MR. SMITH: Ms. Rogers.  
3 REDIRECT EXAMINATION  
4 BY MS. POLLMAN ROGERS:  
5 Q If there were demand from your customers for LNP, you  
6 would hear about it or know about it, would you not?  
7 A That would be correct.  
8 Q Do you know whether conversion to a two-way trunking  
9 system is even possible under the Qwest tariff?  
10 A Again, you know, I'm general manager, not a networking  
11 guy. I do not know that we would have that capability.  
12 Q Now if you are required to accept the responsibility  
13 for transport that you currently do not have, that  
14 would be an increase in your costs?  
15 A That would be correct. We would have to transport that  
16 call, and it would be additional cost in doing that.  
17 MS. POLLMAN ROGERS: Thank you.  
18 That's all.  
19 MR. SMITH: Mr. Wieczorek.  
20 RECROSS-EXAMINATION  
21 BY MR. WIECZOREK:  
22 Q Did you know that your cost expert has projected 900  
23 ports within the first five years?  
24 MS. POLLMAN ROGERS: Objection.  
25 That's beyond the scope of the redirect.

1 MR. WIECZOREK: She asked about if  
2 he knew of anybody looking for LNP.  
3 MR. SMITH: Overruled.  
4 A Can you restate your question, please.  
5 Q Did you know that your cost expert has projected 900  
6 ports in the first five years in your company's areas?  
7 A Yeah. He's projecting 180 per year.  
8 MR. WIECZOREK: Thank you.  
9 MR. SMITH: Additional questions?  
10 MR. KOENECKE: I've got one.  
11 RECROSS-EXAMINATION  
12 BY MR. KOENECKE:  
13 Q You've had no requests for LNP from any of your  
14 customers? Is that what I understood?  
15 A That is correct.  
16 Q What would you tell somebody if they asked?  
17 A At this time we don't have that capability.  
18 MR. KOENECKE: Thank you.  
19 MR. SMITH: Anything further?  
20 MS. POLLMAN ROGERS: No.  
21 MR. SMITH: You may step down,  
22 Mr. Snyders. Thank you. Go off the record a  
23 second.  
24 (Discussion off the record)  
25 (Exhibits McCook 1 and 2 are marked for identification)

1 MR. SMITH: Ms. Rogers, you may call  
2 your next witness.  
3 MS. POLLMAN ROGERS: We are in  
4 Docket TC04-049, which is in the matter of the  
5 petition of McCook Cooperative Telephone Company  
6 for suspension of 251(b)(2).  
7 I would call Bryan Roth to the stand.  
8 BRYAN ROTH,  
9 called as a witness, being first duly sworn in the  
10 above cause, testified under oath as follows:  
11 DIRECT EXAMINATION  
12 BY MS. POLLMAN ROGERS:  
13 Q Good morning, Bryan.  
14 A Good morning.  
15 Q You had a late night last night because you had a board  
16 meeting and then drove to Pierre; is that correct?  
17 A It wasn't too bad.  
18 Q Would you please state your name and address for the  
19 record.  
20 A My name is Bryan Roth, and I'm the general manager of  
21 McCook Cooperative Telephone, 3030 South Nebraska,  
22 Salem, South Dakota.  
23 Q On the table in front of you is what has been marked as  
24 McCook Exhibit 1. Can you identify that?  
25 A Yes.

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1 Q What is it?  
 2 A It is our direct testimony of Tom Bullock, our  
 3 consultant on behalf of McCook Cooperative Telephone  
 4 and on behalf of LNP.  
 5 Q Okay. Then I'd ask you to look at what has been marked  
 6 as McCook Exhibit 2.  
 7 A Okay. That is my prefiled direct testimony.  
 8 (Discussion off the record)  
 9 Q And that prefiled direct testimony was prepared by you  
 10 or under your direction; is that correct?  
 11 A Correct.  
 12 Q Do you have any changes or corrections that you would  
 13 like to make to that prefiled testimony at this time?  
 14 A No, I don't.  
 15 Q And if I were to ask you the questions contained in  
 16 this direct testimony today, would your answers be the  
 17 same?  
 18 A Yes, they would.  
 19 Q Would you briefly summarize your direct testimony?  
 20 A Basically what the testimony -- I feel in the absence  
 21 of customer requests for LNP, the high cost, and the  
 22 low demand of it McCook Cooperative Telephone should  
 23 not be required to provide intercompany LNP.  
 24 MS. POLLMAN ROGERS: I would offer  
 25 McCook Exhibit 2 at this time.

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1 MR. LEWIS: No objection.  
 2 MS. AILTS WIEST: No objection.  
 3 MR. COIT: No objection.  
 4 MR. SMITH: McCook 2 is admitted.  
 5 MS. POLLMAN ROGERS: I would tender  
 6 the witness for cross-examination.  
 7 MR. COIT: No cross here.  
 8 CROSS-EXAMINATION  
 9 BY MR. LEWIS:  
 10 Q Good morning, Commission, counsel, and good morning to  
 11 you, Mr. Roth.  
 12 A Good morning.  
 13 Q My name is Paul Lewis, and I represent Western Wireless  
 14 in this Docket. I have a series of questions I'd like  
 15 to visit with you about.  
 16 A Okay.  
 17 Q Sir, would you agree that the petition that you filed  
 18 before this Commission is as complete and accurate as  
 19 possible?  
 20 A Yes.  
 21 Q And within that petition it contains numbers that were  
 22 compiled by your cost analyst; correct?  
 23 A Correct.  
 24 Q Now did you and members of your office conduct any  
 25 independent surveys to find out for yourself what these

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1 numbers were, or did you just completely rely on your  
 2 cost analyst to compile those numbers?  
 3 A We provided them with some of the information.  
 4 Q But he basically did all the crunching?  
 5 A He compiled the numbers, correct.  
 6 Q Okay. Thank you. Mr. Roth, do you understand the  
 7 methodology that was used by your cost analyst in  
 8 coming up with these numbers?  
 9 A No.  
 10 Q Now in your testimony on page 2 of your direct you  
 11 stated that no one has requested LNP; is that correct?  
 12 A None of our customers have requested LNP from us.  
 13 Q Right. Within your exchange area.  
 14 A Correct.  
 15 Q Okay. In those numbers that were submitted by your  
 16 cost analyst he estimated at least 48 ports per year  
 17 would be ported over to a wireless carrier. Are you  
 18 familiar with that?  
 19 A Yes.  
 20 Q So does it surprise you to know that you're going to  
 21 lose over the next five years approximately 11 percent  
 22 of your wireline customers to wireless?  
 23 A Does it surprise me?  
 24 Q Yes. In light of your first response saying that, you  
 25 know, you've had really no demand.

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1 A I did not come up with the percentage or whatever the  
 2 number that they used for that, and I relied on my cost  
 3 consultant to come up with that. So it was -- I was  
 4 surprised, yes.  
 5 Q Okay. So by virtue of this number you'd agree that  
 6 there is demand out there.  
 7 A Not from what I have seen.  
 8 Q Today -- well, previously, and I've seen you in the  
 9 gallery on other managers' testimony, there's been talk  
 10 about technical feasibility concerning LNP --  
 11 MS. POLLMAN ROGERS: I object to  
 12 that. There has not been any testimony concerning  
 13 technical feasibility this morning since he's been  
 14 in the room and this is the only day he's been  
 15 there.  
 16 MR. LEWIS: Oh, no. He's been in  
 17 the room yesterday --  
 18 MS. POLLMAN ROGERS: No. He was not  
 19 here yesterday.  
 20 MR. LEWIS: I apologize. I  
 21 apologize. Let me rephrase the question.  
 22 Q To your knowledge do you maintain that LNP is  
 23 technically infeasible or feasible? Is it possible or  
 24 not?  
 25 A Technically feasible?

1 Q Yes.  
 2 A Yes.  
 3 Q You would agree it is technically feasible?  
 4 A From what I know, yes.  
 5 Q You're also aware that on November 10 of 2003 the FCC  
 6 mandated compliance of local number portability unless  
 7 your specific exchange area has received an exception.  
 8 You're aware of that, are you not?  
 9 A I'm not aware of the dates and everything with it, yes.  
 10 Q Since that time up until this Commission meeting have  
 11 you made any attempt to contact Western Wireless to  
 12 talk about cost-effective ways of implementing?  
 13 A I believe my attorney has directed a letter after we  
 14 received the request.  
 15 Q Are you also aware that Congress and federal law has  
 16 basically allowed you to recoup some of the expenses  
 17 for LNP through a customer surcharge?  
 18 A Yes.  
 19 Q And if this Commission required you to implement LNP,  
 20 would your company be able to finance that?  
 21 A Yes, we would.  
 22 Q You've noted in your direct testimony on page 1 that  
 23 cellular companies have a more extensive calling area  
 24 than what you currently have. Is that true?  
 25 A And when I say extensive I guess I mean larger. It is

1 willing to pay?  
 2 A No.  
 3 Q And you're not here today to present before the  
 4 Commission any type of demographic information, are  
 5 you?  
 6 A No.  
 7 Q One last question. Do you have a direct point of  
 8 interconnect with a wireless carrier?  
 9 A Yes, we do.  
 10 MR. LEWIS: Okay. No further  
 11 questions. Thank you.  
 12 MR. SMITH: Mr. Koenecke.  
 13 MR. KOENECKE: I'm not a party this  
 14 time.  
 15 MR. SMITH: You're not. Pardon me.  
 16 Ms. Wiest.  
 17 MS. AILTS WIEST: Thank you.  
 18 CROSS-EXAMINATION  
 19 BY MS. AILTS WIEST:  
 20 Q Mr. Roth, what is your current local rate?  
 21 A For?  
 22 Q Residential and business.  
 23 A I believe we provided that in a response to the PUC,  
 24 but I have different local rates depending where it's  
 25 located.

1 larger. We're a small, rural ILEC.  
 2 Q Does your company, Mr. Roth, provide any extended area  
 3 service?  
 4 A Yes.  
 5 Q And would you agree that that's driven by customer  
 6 demand?  
 7 A I suppose it would be possible. It was there prior to  
 8 me getting there so I don't know if customers demanded  
 9 it or not.  
 10 Q But you still maintain the service.  
 11 A Sure.  
 12 Q Okay. Do you charge more for that service? And I'm  
 13 not talking about as a toll call. I'm talking about  
 14 for the line that goes into the house. Do they  
 15 actually pay more for that extended area service?  
 16 A It's figured in our base rates that we have right now.  
 17 We've got different EAS to different communities, but  
 18 we don't offer them an option whether they can have EAS  
 19 or not to our specific exchanges.  
 20 Q So if I didn't have EAS, my bill would be less than  
 21 someone who had EAS?  
 22 A Not necessarily.  
 23 Q Okay. Thank you. Have you done any independent or  
 24 internal surveys on your own to find out the  
 25 demographics of your customers and what they'd be

1 Q Do you have a range?  
 2 A For residential it would be \$14 to 14.20. And business  
 3 rates range from \$16 to \$28.  
 4 Q Thank you. And how many wireless carriers have the  
 5 authority to serve your area? Do you know?  
 6 A No. I can't really, I guess, answer that specifically.  
 7 I would imagine there's probably six.  
 8 Q Six?  
 9 A That would have licenses.  
 10 Q And you couldn't list who those were?  
 11 A We'd have Verizon, Western Wireless. I think RCC is in  
 12 part of that. I suppose Sprint would come in there.  
 13 There's Nextel has some service in our areas.  
 14 Q And those that you listed, those are the wireless  
 15 carriers that are currently serving your area?  
 16 A Portions --  
 17 Q To your knowledge?  
 18 A Portions of it, yes.  
 19 Q And you just stated that you had one point of  
 20 interconnection?  
 21 A Correct.  
 22 Q Where is that, and to which wireless carrier?  
 23 A It's Verizon into the Salem exchange.  
 24 MS. AILTS WIEST: Thank you. That's  
 25 all I have.

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1 MR. SMITH: Commissioners?  
 2 Ms. Rogers?  
 3 MS. POLLMAN ROGERS: I have nothing.  
 4 MR. SMITH: You're excused.  
 5 (Discussion off the record)  
 6 MR. SMITH: Ms. Rogers, you may call  
 7 your next witness.  
 8 MS. POLLMAN ROGERS: Our next  
 9 witness is Tom Bullock.  
 10 (Exhibits Bullock 1 and 2 are marked for identification)  
 11 (Exhibit Tri-County 1 is marked for identification)  
 12 TOM BULLOCK,  
 13 called as a witness, being first duly sworn in the  
 14 above cause, testified under oath as follows:  
 15 DIRECT EXAMINATION  
 16 BY MS. POLLMAN ROGERS:  
 17 Q Good morning.  
 18 A Morning.  
 19 Q Would you please state your name and address for the  
 20 record.  
 21 A Sure. My name is Tom Bullock, and my business address  
 22 is 233 South 13th Street, Suite 1225, Lincoln,  
 23 Nebraska.  
 24 Q What is your occupation, Mr. Bullock?  
 25 A I'm a consultant with Telec Consulting Resources.

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1 Q And did you act as a cost consultant for several of the  
 2 Petitioners in these Dockets?  
 3 A Yes, I did.  
 4 Q And that would include Sioux Valley, Golden West Vivian  
 5 and Kadoka, Armour, Union, Bridgewater-Canistota,  
 6 McCook, Valley, Faith, Alliance, Splitrock, and  
 7 Tri-County?  
 8 A All of those, yes.  
 9 Q Did I miss any?  
 10 A No. That's the list.  
 11 Q All right. Now, Mr. Bullock, can you give me just a  
 12 brief background -- well, let's go through the exhibits  
 13 first. Should we do that?  
 14 Now in this Docket you prefiled some  
 15 testimony; is that correct, or in these Dockets?  
 16 A Yes.  
 17 Q And in front of you I believe you have what have been  
 18 marked as Bullock Exhibits 1 and 2?  
 19 A I see those.  
 20 Q Could you please explain what those are?  
 21 A Bullock Exhibit 1 is my introductory testimony, direct  
 22 testimony on behalf of all of the companies that were  
 23 just listed in the eight Dockets in which their  
 24 petitions were filed. Bullock 2 is my rebuttal  
 25 testimony in those same Dockets.

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1 Q Okay. And let's talk about those exhibits first. Do  
 2 you have any corrections or additions to Bullock  
 3 introductory Exhibits 1 and 2?  
 4 A Yes, I do. In my rebuttal testimony on page 3  
 5 beginning with line 14 this is in response to a  
 6 question about S-O-A, SOA costs. My statement is --  
 7 well, let me begin with line 12 on Exhibit 2 that was  
 8 attached to my direct testimony, "Most of the RLECs did  
 9 not include any nonrecurring costs on the line entitled  
 10 SOA nonrecurring setup charge. The only exceptions are  
 11 Sioux Valley and the merged operation of Golden West,  
 12 Vivian, and Kadoka."  
 13 That is not correct. I should have also  
 14 included a third exception, namely, Alliance and  
 15 Splitrock, in order to be consistent with the cost  
 16 analysis that was actually done.  
 17 My next correction is, as Steve Oleson  
 18 testified yesterday for Valley, there is a third  
 19 wireless carrier operating in his area, namely CommNet  
 20 Cellular. And so to account for that, we would like to  
 21 revise some cost estimates.  
 22 Q And those would also be on the cost estimates attached  
 23 to Valley's individual testimony? Were they all  
 24 attached to your introductory and rebuttal?  
 25 A The latter, attached to my testimony.

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1 Q Okay. All right.  
 2 A Another correction, 3, for Alliance and Splitrock, I  
 3 learned last week that I had received incorrect counts  
 4 of equipped lines in the DMS-10 switches for Alliance  
 5 and Splitrock, and the net effect for that correction  
 6 will be to reduce their switch upgrade costs somewhat.  
 7 MS. AILTS WIEST: What exhibit are  
 8 we talking about?  
 9 MS. POLLMAN ROGERS: We're talking  
 10 about exhibit --  
 11 MR. WIECZOREK: Are you talking  
 12 R-1-TB?  
 13 THE WITNESS: That's one of them.  
 14 The other would be the Exhibit 2 that was filed for  
 15 Alliance and Splitrock with my direct testimony.  
 16 MS. AILTS WIEST: So for Exhibit 2  
 17 attached to your introductory direct testimony for  
 18 lines merged would a number be changed on that  
 19 exhibit?  
 20 THE WITNESS: Yes.  
 21 MS. AILTS WIEST: What would that  
 22 be?  
 23 THE WITNESS: The switch upgrade  
 24 cost would be reduced.  
 25 MS. AILTS WIEST: To what?

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1 THE WITNESS: I haven't done the  
2 calculations yet.  
3 MS. POLLMAN ROGERS: It would be  
4 Mr. Bullock's intention to submit updated exhibits  
5 as he just learned this when he got here yesterday.  
6 THE WITNESS: Actually I received  
7 the information late last week.  
8 MS. AILTS WIEST: Be reduced by a  
9 lot?  
10 THE WITNESS: Somewhat. I did a  
11 quick calculation that I'm not going to swear to.  
12 If I can suspend my oath for just this one  
13 response, the net result --  
14 CHAIRMAN SAHR: Excuse me. I don't  
15 know if -- you're under oath right now.  
16 THE WITNESS: Okay.  
17 CHAIRMAN SAHR: So you can clarify  
18 it and say that perhaps you haven't --  
19 THE WITNESS: Subject to later  
20 correction.  
21 CHAIRMAN SAHR: Or you may make  
22 corrections or you can clarify it otherwise, but  
23 unless we permit you to go off the record where you  
24 will not be under oath because you won't be  
25 participating in the proceeding, you are under the

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1 oath unless your attorney requests and is granted  
2 the ability to take you off the record.  
3 MR. SMITH: Mr. Bullock, let me just  
4 assure you that being wrong isn't the same as  
5 committing perjury. And you don't need to worry  
6 about that. I think the important thing, though,  
7 is if you're not sure -- if you haven't had  
8 sufficient time, just characterize your answer with  
9 the level of certainty that you have right now.  
10 THE WITNESS: My recollection is  
11 that the bottom line result would be to reduce the  
12 monthly per line cost for Alliance and Splitrock  
13 without transport and without surcharges and taxes  
14 from I think the current figure is 73 cents to --  
15 and here's where my recollection is not absolutely  
16 certain, to approximately 70 cents.  
17 MS. POLLMAN ROGERS: What we would  
18 request permission to do would be to file a  
19 supplemental exhibit to reflect those changes.  
20 MS. AILTS WIEST: I was just  
21 curious, though, if he got it last week, why don't  
22 we have it now or why didn't we get it Monday?  
23 MR. WIECZOREK: Or even submit it  
24 right now, the revised right now.  
25 MS. POLLMAN ROGERS: I was not aware

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1 of it.  
2 THE WITNESS: I don't have an answer  
3 for that.  
4 MS. POLLMAN ROGERS: I mean, we want  
5 to be able to provide the Commission with the most  
6 accurate and current figures available, and so we  
7 would renew our request to be able to submit an  
8 updated cost exhibit. I really don't believe that  
9 that change is real significant so that would be  
10 our request.  
11 MR. WIECZOREK: Can I just ask the  
12 witness a couple of clarifying questions?  
13 MR. SMITH: Please.  
14 MR. WIECZOREK: Are your revisions  
15 going to reduce your costs in all cases?  
16 THE WITNESS: The revision I was  
17 speaking of is with respect to Alliance and  
18 Splitrock.  
19 MR. WIECZOREK: Right. That will  
20 reduce your cost estimates for Reliance?  
21 THE WITNESS: Yes.  
22 MR. WIECZOREK: The other number  
23 revision you talked about earlier, will that also  
24 result in reduction in the line item -- the line  
25 costs for -- the LNP cost per line?

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1 THE WITNESS: I'm sorry. Which  
2 correction?  
3 MR. WIECZOREK: The other correction  
4 to your spreadsheets, your number corrections.  
5 Valley -- you're talking about correcting a number  
6 of spots on this spreadsheet, I understand it, your  
7 cost analysis.  
8 MS. POLLMAN ROGERS: I think I can  
9 probably respond to that. The figures that are  
10 placed on the spreadsheet that you're referring to  
11 were taken from Exhibit 2 that was attached. So to  
12 the extent -- I mean, it would be the same change  
13 in Exhibit 2 and then reflected on the spreadsheet  
14 for the respective company because it's broken out  
15 by companies.  
16 MR. WIECZOREK: What I'm getting at  
17 is this, Commission, that, I mean, if his changes  
18 frankly will reduce his bottom line, he can make  
19 them and I'd have no objection to him submitting  
20 that amendment as long as I get a letter not to be  
21 produced into evidence but just a letter explaining  
22 where he made his changes.  
23 If he's going to make changes that increase  
24 his costs, I believe I'd also request a letter  
25 explaining why he increased his costs, and I'd also

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1 then request just like we have with Mr. DeWitte  
 2 when he changes his I'd get the opportunity to make  
 3 a determination whether I think I need to  
 4 cross-examine him on any increased costs.  
 5 Frankly, if he's going to reduce costs, I  
 6 don't think I'm going to want to cross-examine him  
 7 on reduced costs.  
 8 MR. SMITH: With Valley, I  
 9 understand there you stated there was an additional  
 10 company?  
 11 THE WITNESS: That's correct.  
 12 MR. SMITH: Would that increase the  
 13 number of ported numbers?  
 14 THE WITNESS: It would increase our  
 15 estimate of a couple of cost categories.  
 16 MR. SMITH: So I think in the case  
 17 of Valley your changes would probably result in  
 18 increased costs.  
 19 THE WITNESS: That's correct. I  
 20 have a couple more.  
 21 MS. POLLMAN ROGERS: Just a minute.  
 22 Where are we here? Should I have him go through  
 23 all of these?  
 24 MR. SMITH: I think so. And then  
 25 we'll make a decision. I mean, I think in the case

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1 of the other -- Mr. DeWitte, you know, we went  
 2 through a process of trying to make the documents  
 3 reflect the testimony, and I don't know that that's  
 4 not a sensible thing to do here. But let's see  
 5 what we have here. Go ahead.  
 6 A Okay. My fourth correction is that for Golden West  
 7 Vivian and Kadoka I recently learned that Vivian and  
 8 Kadoka have some newly installed direct trunk links to  
 9 Verizon at Wall and at Kadoka, and the net result of  
 10 that would be a reduced transport cost estimate to  
 11 account for those existing direct trunks.  
 12 Q And that would be consistent with the testimony  
 13 presented by Mr. Law this morning?  
 14 A Correct.  
 15 Q Okay.  
 16 A And, finally, for the same group of companies,  
 17 Golden West Vivian, and Kadoka, as Denny Law testified  
 18 earlier, the company made an error in reporting their  
 19 count of access lines for all three companies, and I  
 20 can't predict the net result of that change. Some  
 21 estimates may go up, some may go down.  
 22 MR. SMITH: That's the reduction  
 23 from the 18,000 down to 17 and change?  
 24 MS. POLLMAN ROGERS: That's correct.  
 25 THE WITNESS: Yes.

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1 A I also have just a couple of general comments about  
 2 costs.  
 3 Q Now is this on your direct and rebuttal testimony?  
 4 That's what we're referring to right now.  
 5 A Yes.  
 6 MR. WIECZOREK: Corrections?  
 7 Q Does that conclude your corrections to your testimony?  
 8 A Yes.  
 9 Q Okay.  
 10 A Specifically regarding --  
 11 Q Just wait one minute.  
 12 MS. POLLMAN ROGERS: With that, we  
 13 would renew our request to be able to provide  
 14 supplemental or supplemented or updated cost  
 15 exhibits that reflect the evidence that has come in  
 16 and the corrections that he's referred to that  
 17 would be reflected in those cost exhibits.  
 18 MR. SMITH: Let me ask, would you  
 19 want to do that via changing what's in the original  
 20 documents or submitting just a new exhibit that is  
 21 labeled corrected spreadsheets or whatever?  
 22 MS. POLLMAN ROGERS: How were we  
 23 doing it in the other case with Mr. DeWitte?  
 24 MR. SMITH: I think we substituted  
 25 in that case.

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1 MR. WIECZOREK: We haven't  
 2 substituted yet because he's still correcting it.  
 3 Didn't he take his testimony with him?  
 4 MR. SMITH: It disappeared. I'll  
 5 put it that way.  
 6 MS. AILTS WIEST: I can't remember.  
 7 He already submitted one correction, and I don't  
 8 know if that was substituted or added.  
 9 MR. WIECZOREK: I don't think --  
 10 frankly, my recollection is I'm not sure that we  
 11 substituted or added anything yet because we found  
 12 three or four more mistakes on it, and I thought  
 13 what he did was he was going to go back, do it  
 14 again, and submit it.  
 15 MS. POLLMAN ROGERS: Well, my  
 16 suggestion was whatever procedure we followed  
 17 there, we follow the same one here.  
 18 MR. SMITH: These are going to be  
 19 quite incremental changes, are they not? They're  
 20 not going to be order of magnitude type things?  
 21 THE WITNESS: They will be fairly  
 22 insignificant changes to the bottom line.  
 23 MR. WIECZOREK: What we did with  
 24 Mr. DeWitte, as I recall, is I made the request at  
 25 least two days before he come back for Santel I'd

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1 have his changes with an explanation of where he  
 2 made his changes so after Santel I could  
 3 cross-examine him.  
 4 I guess what I would ask is that I would have  
 5 Mr. Bullock's changes Tuesday morning. Then  
 6 Wednesday morning I could tell you whether I feel I  
 7 need to cross-examine him. And the only reason I  
 8 say it would take that long, I'd like to review  
 9 them with Mr. Williams to see if there are any  
 10 changes.  
 11 Quite frankly, if the changes are minute in  
 12 the bottom line, it's probably not going to be  
 13 trouble, but I'd like to leave that opportunity  
 14 open if all the sudden there is a large jump.  
 15 MR. SMITH: I agree. I think you  
 16 must have the opportunity to be able to  
 17 cross-examine as to any changes if you deem it  
 18 necessary. I think that goes with any of these  
 19 situations.  
 20 So, as I understand it, what you're going to  
 21 do is do recalculations over the weekend and you'll  
 22 submit a revised document, and if you could, if you  
 23 could do that in a way that would reflect the  
 24 changes, that would be good, whether they're  
 25 highlighted, the numbers that have been changed, or

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1 some method that identifies what you've done.  
 2 Is that fair?  
 3 MR. WIECZOREK: That's fair. And  
 4 the earlier I get it, would be e-mailed to me, I  
 5 can try to review it first thing Monday and I can  
 6 send it on to Mr. Williams and perhaps we can tell  
 7 the Commission Tuesday morning whether we feel we  
 8 need to have Mr. Bullock back for  
 9 cross-examination.  
 10 MR. SMITH: Okay.  
 11 MS. POLLMAN ROGERS: Thank you.  
 12 Q Mr. Bullock, with regard to --  
 13 MS. POLLMAN ROGERS: If it's all  
 14 right to you, I'm going to handle the direct and  
 15 rebuttal and general first, and we'll go through  
 16 the individual.  
 17 Q With regard to your introductory testimony submitted on  
 18 behalf of all of the companies and also with regard to  
 19 your rebuttal testimony, I'm going to ask you if you  
 20 could summarize those, please.  
 21 A Before I begin my summary, there are a couple of other  
 22 points I'd like to make about switch upgrade costs,  
 23 specifically for Faith and for Tri-County.  
 24 Q I think we can -- I would ask you to summarize your  
 25 testimony now. We can cover any comments with regard

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1 to specific companies when we -- or any testimony with  
 2 regard to specific companies when we deal with that  
 3 company.  
 4 A That's fine.  
 5 Q In my direct testimony I'm providing support for the  
 6 argument that the Petitioners have made that the cost  
 7 of implementing LNP is an economic burden. I've also  
 8 presented in my direct testimony an overview of LNP  
 9 network architectural elements and processes involved  
 10 with LNP. I'd refer you to what's called Exhibit B to  
 11 my introductory direct testimony for that, for a  
 12 diagram of the network architecture and processes  
 13 involved with LNP.  
 14 In my direct testimony I give a description  
 15 of the various cost categories that we've considered in  
 16 estimating implementation costs and also present the  
 17 process that Telec Consulting used to develop those  
 18 cost estimates.  
 19 We started with a series of meetings and  
 20 discussions with small rural telephone companies that  
 21 does not include the companies on whose behalf I'm  
 22 testifying, and we received from that initial group of  
 23 telephone companies, many in Nebraska, some in  
 24 South Dakota, estimates of LNP implementation costs  
 25 directly from those companies and made the observation

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1 at that time that several companies' managers were  
 2 having a hard time understanding what kinds of costs  
 3 they would be incurring.  
 4 And so we kind of combined the experience and  
 5 expertise of the various companies' managers and  
 6 attempted to construct a model for calculating or  
 7 estimating costs that would more or less regularize our  
 8 cost estimates to achieve some degree of uniformity in  
 9 approach towards developing our cost estimates.  
 10 Then for the companies on whose behalf I am  
 11 testifying we asked specific questions of the  
 12 companies, such as how many access lines do you have,  
 13 how many employees do you have in certain job titles,  
 14 and what's the average wage rate, how many wireless  
 15 carriers do you have currently operating in your  
 16 service area, things like that, and used that basic  
 17 information to calculate estimated costs for the  
 18 various cost categories, which I'll describe in a  
 19 minute.  
 20 And these calculations were the basis of our  
 21 original Exhibit 1 that was filed with the petitions in  
 22 March, I think. Then the final stage of cost  
 23 development were a series of refinements to those  
 24 initial estimates that are summarized in the Exhibit 2  
 25 document that were provided with my direct testimony.



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1 The cost categories that we analyzed are,  
 2 first, switch upgrade costs. For Exhibit 1 we simply  
 3 asked the companies to estimate those costs. They  
 4 reported cost figures to us, and that's what appears on  
 5 Exhibit 1.  
 6 For Exhibit 2 we investigated the pricing  
 7 policies of the individual switch manufacturers that  
 8 the telephone companies utilize in their networks and  
 9 collected a little more information from the companies  
 10 to allow us to apply those pricing policies. And  
 11 Exhibit 2's switch upgrade costs reflect that process.  
 12 The second cost category is what we call  
 13 internal business procedure changes. I think you've  
 14 heard Mr. Williams describe the hundreds of tasks that  
 15 have to be performed to implement LNP. What this cost  
 16 category is intended to represent is the planning for  
 17 implementation of these new procedures that have to  
 18 occur in order to enable a telephone company to port  
 19 numbers.  
 20 Switch technicians have to be trained on how  
 21 to interact with customer service representatives to  
 22 the processing of a service order to port a number.  
 23 The customer service people have to know what to do  
 24 with a local service request that they receive from a  
 25 carrier who wants to port a number and how to fill out

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1 the firm order confirmation that is the reply to that.  
 2 You have to establish a mechanism for interfacing with  
 3 the number portability administration center through an  
 4 SOA capability.  
 5 Anyway, the internal business procedure  
 6 changes are the upfront investment costs, and what we  
 7 estimated is strictly labor costs, calculated -- or we  
 8 estimated -- I'm sorry, estimated numbers of man hours  
 9 required and simply multiplied those man hours by  
 10 average wage rates and totalled it all up and that's  
 11 what we show for internal business procedure change  
 12 cost estimates.  
 13 The third category we call intercarrier  
 14 testing -- I'm sorry. Let me back up a second.  
 15 For the internal business procedure changes  
 16 we used the same mechanism for both Exhibit 1 and  
 17 Exhibit 2. For the cost category called intercarrier  
 18 testing, again we applied the same methodology for  
 19 Exhibit 1 and Exhibit 2. We estimated that a total of  
 20 120 man hours would be required to test call routing,  
 21 the interaction among switches. When you're dealing  
 22 with another carrier things get more complicated.  
 23 Things are not confined to your own switch network  
 24 anymore. We estimated 120 man hours split among three  
 25 different job titles; customer service supervisor, a

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1 switch technician, and a customer service  
 2 representative, if the company had those job titles.  
 3 If they didn't have those job titles, we took the 120  
 4 hours and assigned them to different job titles.  
 5 The fourth cost category is what we call  
 6 other internal costs. We used the same approach for  
 7 both Exhibit 1 and Exhibit 2. Attached to my direct  
 8 testimony is a document we call Exhibit E, and this is  
 9 a chart that shows the number of man hours that we  
 10 estimate would be required in order to analyze and fill  
 11 out the forms that companies receive from wireless  
 12 carriers as part of the arrangement that must be  
 13 established between companies in order to facilitate  
 14 porting.  
 15 This includes what are called trading partner  
 16 profiles and number portability agreements. Actually  
 17 in my rebuttal testimony I've included as attachments  
 18 examples of those kinds of documents that companies --  
 19 that rural telephone companies have received from  
 20 wireless carriers.  
 21 The fifth cost category is LNP query costs.  
 22 What we assumed is that companies would utilize the  
 23 services of a well established query service provider  
 24 that many small telephone companies do business with  
 25 today. We've signed a nondisclosure agreement with

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1 this outfit so I can't reveal their identity and their  
 2 pricing in public, but this company charges a monthly  
 3 minimum for query charges. We did not estimate  
 4 quantities of queries that would be performed. We  
 5 simply used the monthly minimum.  
 6 In Exhibit 1 we made the mistake of  
 7 calculating our LNP query costs based on a monthly  
 8 minimum per company. We corrected that mistake in the  
 9 Exhibit 2s filed with my direct testimony, taking into  
 10 account the fact that this monthly minimum does not  
 11 apply on a per company basis but on a per switch basis.  
 12 And so the result of that was, for companies that have  
 13 more than one switch, an increase in query costs.  
 14 The sixth cost category is service order  
 15 administration costs or SOA. For Exhibit 1 we obtained  
 16 information from a couple of commercial SOA service  
 17 providers that I would say larger telephone companies  
 18 utilize, both wireline and wireless. We learned about  
 19 these through telephone companies that we work with who  
 20 have CLEC operations and have implemented LNP that  
 21 utilize these providers of SOA services.  
 22 And for Exhibit 1 we simply took the average  
 23 of the initial cost and the average of the monthly  
 24 recurring costs for these two SOA services that we  
 25 learned about. For Exhibit 2 we had learned about some

1 lower cost options available for SOA services through  
2 yet another provider of services and we -- well, let me  
3 start again.

4 The two lower cost options that we used for  
5 Exhibit 2 have different pricing structures. One of  
6 them depends on the volume of porting activity that you  
7 have. There's a charge per porting transaction, which  
8 is not the same thing as port as a number port. I've  
9 seen estimates from consultants that indicate porting  
10 out a number can require from one to three  
11 transactions. Porting in a number from a carrier can  
12 require three or four or five transactions. And so  
13 under this kind of pricing option your expenses for SOA  
14 services rely on a projected volume of porting  
15 activity.

16 There is another option that we looked at  
17 that involves a flat monthly rate, and what we did was  
18 projected the volume of porting activity and then  
19 simply -- for each company, based on their count of  
20 access lines, and then chose between these two lower  
21 cost options which one would be most cost-effective,  
22 the lowest cost for that particular company.

23 And in my Exhibit F it's called to my direct  
24 testimony I have a chart that lays out the estimated  
25 porting volumes for companies of different sizes in

1 transport. And what we have assumed in both Exhibit 1  
2 and Exhibit 2 is that direct trunk links would be  
3 installed between the ILEC's network and each wireless  
4 carrier that's currently providing service in the  
5 ILEC's territory.

6 On both Exhibit 1 and Exhibit 2 there are  
7 some derived numbers derived from the 10 cost  
8 categories that I just described in order to calculate  
9 an estimate of a cost per line per month, taking into  
10 account all of the costs I've just described.

11 In accordance with the FCC's cost recovery  
12 guidelines with respect to the end-user charge, we  
13 included an 11 and a quarter percent rate of return for  
14 the upfront investment. However, we did not make any  
15 provisions for reductions in access line counts, and so  
16 as a result of this second failure to account for  
17 reductions in access line counts, our costs are  
18 actually lower -- I should say our cost estimates are  
19 lower than they would be had we taken that into  
20 account.

21 And, finally, on both Exhibit 1 and Exhibit 2  
22 we show cost estimates, both without transport and  
23 costs with transport because we believe that this tenth  
24 category, transport, is in an entirely different  
25 category from all of the other LNP related costs.

1 terms of access line counts.

2 The seventh cost category we call customer  
3 notification, and this is our estimate of sending out a  
4 one-time mailing to all customers notifying them of  
5 what LNP is and that there would be a new charge  
6 appearing on their bill to recover costs of LNP.

7 The eighth cost category we called switch  
8 maintenance. For Exhibit 1 we obtained estimates from  
9 the telephone companies of switched maintenance costs,  
10 and then in the course of developing our Exhibit 2 cost  
11 estimates we had these conversations with the switch  
12 manufacturers and learned that, in fact, none of the  
13 switch manufacturers would increase their software  
14 maintenance contract agreements. None of them would  
15 increase the cost of maintaining a software maintenance  
16 agreement, and so we changed those switch maintenance  
17 costs to zero on Exhibit 2.

18 The ninth cost category we call other  
19 recurring costs, I believe. I just have the word other  
20 written here in my notes. For Exhibit 1 we didn't  
21 include any costs in that category. For Exhibit 2 we  
22 estimated labor costs of processing a certain number of  
23 ports per month using the same estimates of porting  
24 volumes that we had for the SOA costs.

25 And, finally, the tenth cost category we call

1 In my rebuttal testimony I have included an  
2 attachment or an exhibit that's called R-1-TB where I  
3 show side-by-side comparisons of the numbers from our  
4 Exhibit 2 and also from Western Wireless Exhibit 5 that  
5 was attached to Ron Williams' direct testimony.  
6 Another attachment to my rebuttal testimony is the  
7 examples of porting agreements and trading partner  
8 profiles. Those are R-2-TB and R-3-TB. I also stated  
9 in my rebuttal testimony some reasons why we decided to  
10 use T-1 circuits and direct trunk links between the  
11 ILEC network and CMRS carriers, and I'd like to  
12 elaborate on those.

13 Off the top of my head last night as I was  
14 thinking about this question and anticipating some  
15 questions from the Western Wireless folks I could only  
16 think of five good reasons why we might want to use T-1  
17 circuits and direct trunks to connect the ILEC network  
18 to the wireless switches.

19 The first one is if you don't go through a  
20 tandem switch, whether it's Qwest or SDN or somebody  
21 else, you're eliminating a potential point of failure.  
22 If you direct connect -- if you connect directly to the  
23 wireless carrier's switch, you're going to establish an  
24 operationally more reliable connection.

25 The second reason is that direct trunks for

1 delivery of traffic from the ILEC network to the  
2 wireless carrier is consistent with existing  
3 Interconnection Agreements.

4 The third reason we decided to price our  
5 transport this way is that it's a known entity. We can  
6 look up tariffs for T-1 circuits, and it is what it is.  
7 That's the price you pay for a T-1 circuit from point A  
8 to point B.

9 A fourth reason is that circuits that come  
10 into the ILEC network -- I should say trunk links that  
11 are established to the ILEC network directly from the  
12 individual wireless carriers can be more easily  
13 monitored for call detail and billing purposes.  
14 Whether you're billing one way or the other way, you  
15 know who your trunk link is connected to, as opposed to  
16 going through a tandem there's a possibility that you  
17 might lose some information that reveals the identity  
18 of where the traffic is coming from.

19 And, finally, and I think this is  
20 particularly important, at this time I think it's safe  
21 to say that nobody can predict the volume of traffic  
22 that we're going to see between wireless carriers and  
23 rural ILECs. We were talking about the example here of  
24 LNP generated traffic. It's quite conceivable that  
25 there could be more. If we use this thing as kind of a

1 marked, and they're marked with names that  
2 correspond to the company names.

3 MR. WIECZOREK: All right.

4 MR. KOENECKE: That's acceptable.

5 MS. AILTS WIEST: No objection.

6 MR. SMITH: Okay. Bullock 1 and  
7 Bullock 2 are admitted. Do you want to go through  
8 each one and get them all in now, or do you want to  
9 go through the round with this and then move to  
10 each company?

11 MR. WIECZOREK: I think you want to  
12 put them all in because I'm going to walk through  
13 the companies as part of my cross.

14 MR. SMITH: Okay. Why don't you  
15 proceed with each company.

16 Q (BY MS. POLLMAN ROGERS) Okay. The other exhibits  
17 would include McCook Exhibit 1 -- let me preface by  
18 saying in addition to your direct and rebuttal  
19 testimony filed on behalf of the whole group of  
20 companies you represented, you also filed a direct  
21 testimony in each of the individual Dockets of your --  
22 the companies that you're representing; is that  
23 correct?

24 A Yes. That's correct.

25 Q And so I would ask you to look -- and I think you have

1 precedent, there's no telling what could happen. And  
2 so assuming that the only traffic that we're talking  
3 about that might be changed between wireless and  
4 wireline carriers on a local basis where there's no  
5 interexchange carrier, assuming that that level of  
6 traffic is going to be only the level of traffic  
7 attributable to delivering calls to ported numbers, I  
8 think is a faulty assumption.

9 And that concludes my summary.

10 MS. POLLMAN ROGERS: Thank you. We  
11 would offer Bullock Exhibits 1 and 2 with the  
12 proviso that we will provide any updates to the  
13 cost estimates attached to those exhibits prior to  
14 Tuesday morning's resuming hearings.

15 MR. COIT: I don't have any  
16 objection.

17 MR. WIECZOREK: Just so I make sure  
18 I know what's offered, are you going to mark and  
19 offer his specific testimony that he gave in direct  
20 for each company too?

21 MR. SMITH: We're just looking at 1  
22 and 2 now.

23 MR. WIECZOREK: I have no objections  
24 to 1 and 2.

25 MR. SMITH: Those are all separately

1 before you McCook Exhibit 1.

2 A Uh-huh.

3 Q Alliance Splitrock Exhibit 3?

4 A Yes.

5 Q Valley Exhibit 3?

6 A Yes.

7 Q Faith Exhibit 3?

8 A Yes.

9 Q Golden West Exhibit 3 -- that would be Golden West  
10 Vivian Kadoka Exhibit 3?

11 A Yes.

12 Q Armour, Bridgewater-Canistota, Union Exhibit 3?

13 A Yes.

14 Q Sioux Valley Exhibit 3?

15 A Yes.

16 Q And Tri-County Exhibit 1?

17 A Correct.

18 Q And are those the prefiled testimony that you filed in  
19 each of these Dockets on behalf of each of these  
20 individual companies?

21 A Shall I read them all?

22 Q No. I'm just asking you if those are the -- if that's  
23 the prefiled testimony that you filed.

24 A Yes.

25 Q If you want to take time to look at them, that's --

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1 yes. Is that your question?

2 A I'm assuming that the title page reflects what's behind

3 the title page. I'll say these are my direct

4 testimony.

5 Q Okay. We will save any additions, anything that you

6 said, we'll discuss those when we get into the

7 individual Dockets with regard to the corrections that

8 you've already alluded to, if that's satisfactory.

9 MR. WIECZOREK: I think it would go

10 much quicker if he makes any changes he's got now

11 so I can cross-examine him as we go through, and

12 I'll do it all at once rather than cross-examine

13 and come back.

14 MR. SMITH: Yeah. I think we should

15 note those --

16 Q Are there any -- let's see. We alluded to the

17 correction to Valley with regard to the addition of the

18 third wireless carrier. Are there any other

19 corrections or additions -- and that would be included

20 in Valley Exhibit 3, that correction; is that correct?

21 A We're introducing a new Exhibit 3 or --

22 Q No. My question was you'll recall in describing

23 additions and corrections to your general testimony you

24 alluded to a correction to Valley's figures, and that

25 addition was adding another wireless carrier.

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1 Would that addition or correction need to be

2 made in Valley Exhibit 3?

3 A Yes.

4 Q Okay. And then you also --

5 MR. WIECZOREK: I'm sorry. I guess

6 I'm going to object if I don't have a line and page

7 number where he's making these additions.

8 MS. POLLMAN ROGERS: I think that

9 would be on Exhibit 2 of each of the individual

10 documents.

11 MR. SMITH: I'm still trying to find

12 the Docket. Are we on Valley now still?

13 MS. AILTS WIEST: There's an exhibit

14 to a specific 2, though.

15 MR. WIECZOREK: It doesn't appear in

16 the testimony, the reference --

17 MR. SMITH: I found it. Now what's

18 the issue?

19 MS. POLLMAN ROGERS: We were going

20 through the changes or additions that would need to

21 be made to the individual testimonies, and

22 Mr. Bullock pointed out initially that in the case

23 of Valley there is a third wireless carrier of

24 which he was not aware. And so that would change

25 some of the figures on Exhibit 2.

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1 That Exhibit 2 is the same exhibit that is on

2 the general testimony, but it would need to be --

3 the correction would need to be reflected in that

4 as well.

5 MR. SMITH: And you don't have those

6 numbers today.

7 MR. WIECZOREK: Yeah. I guess what

8 I see -- the numbers or the reference to the number

9 of companies he used is not in exhibit -- not in

10 his prefiled testimony, which I don't really have

11 an issue with. But if the only changes to his

12 Exhibit 2 and all of those numbers fall down to

13 R-1-TB, couldn't we just accept the changes he

14 makes to R-1-TB as being his final numbers and

15 catching all of his corrections rather than trying

16 to walk through and correcting all of these

17 numbers?

18 MR. SMITH: As far as I'm concerned,

19 we can. That's basically what we were doing with

20 DeWitte's.

21 MR. WIECZOREK: I would accept that

22 approach and have no objections if we just did it

23 that way.

24 MR. SMITH: Anybody have an

25 objection to that?

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1 MS. AILTS WIEST: That's fine.

2 MR. KOENECKE: No.

3 MR. SMITH: Okay.

4 MS. POLLMAN ROGERS: So we're going

5 to make the changes on the -- whatever this one is.

6 MR. WIECZOREK: R-1-TB.

7 Q Okay. So the changes or the corrections that we

8 discussed before in your introductory testimony would

9 carry over on each of the exhibits we're talking about

10 now. Is that basically correct?

11 A I think it might be useful for me to point out that in

12 the next of these individual company-specific cost data

13 direct testimony documents there are references to

14 costs, and if no one is concerned with the

15 inconsistency that will result, then we can simply

16 adjust the dollar amounts on the attachments that

17 summarize the costs.

18 MR. WIECZOREK: I have no objection

19 to that as long as he has talked about the costs

20 that are going to be changed on R-1-TBRA that I

21 don't feel we have to go through all the old

22 prefiled testimony and change it all to be the

23 same.

24 MR. SMITH: Any objections to that?

25 MS. AILTS WIEST: No.

1 MR. SMITH: Okay.  
2 MS. POLLMAN ROGERS: With that, I am  
3 going to offer McCook Exhibit 1, Alliance Splitrock  
4 Exhibit 3, Valley Exhibit 3, Faith Exhibit 3,  
5 Golden West Exhibit 3, Armour Bridgewater-Canistota  
6 Union Exhibit 3, Sioux Valley Exhibit 3, and  
7 Tri-County Exhibit 1 into evidence.

8 MR. COIT: No objection. He always  
9 looks over here.

10 MR. WIECZOREK: Only because you  
11 complained he was calling on me first. No  
12 objections.

13 MR. KOENECKE: No objections.

14 MS. AILTS WIEST: No objections.

15 MR. SMITH: Hearing no objections,  
16 all of the aforementioned exhibits are admitted  
17 into evidence.

18 MS. POLLMAN ROGERS: I would tender  
19 the witness for cross-examination.

20 CROSS-EXAMINATION

21 BY MR. WIECZOREK:

22 Q Mr. Bullock, my name is Talbot Wieczorek. I represent  
23 Western Wireless in these proceedings.

24 A Good morning.

25 Q Good morning. I've got some questions. Let's start

1 the Commission is going to have a real hard time  
2 understanding what we're talking about if we mean  
3 different things by the same words.

4 Q Maybe we can use my example. There's a poster board up  
5 there that shows a blown-up what has been marked as  
6 Western Wireless Exhibit 5, and that's the first page  
7 of Exhibit 5.

8 A The peacock.

9 Q You were here for that discussion.

10 A I've heard it described.

11 Q Are you recommending an identical type of approach?

12 A Well, first of all, when I read the names of the host  
13 offices that are depicted here, there is no indication  
14 as to whether a particular host office -- or, I'm  
15 sorry, a particular end office as they're labeled here  
16 is a host or is a remote or is a tandem or is a  
17 satellite. They're simply named as end offices.

18 And the picture shows a connection between  
19 each one of those end offices and each wireless carrier  
20 shown along the bottom of the picture. We did not use  
21 that kind of an approach.

22 Q Right. And I apologize. I know you've been here for  
23 at least a day. Were you here when Mr. DeWitte  
24 testified about this type of approach that's  
25 illustrated on Exhibit 5?

1 with, as I understand your plan -- I'd just like to get  
2 a basic so I understand what your cost -- what you've  
3 cost out in this situation and so if I'm -- I'm going  
4 to walk through it as I understand it, and you correct  
5 me if I'm misstating it.

6 As I have gone through not just your  
7 testimony but through the discovery documents you've  
8 provided, which are voluminous, from every host office  
9 is what you're recommending would be a T-1 line to  
10 every cell provider who has service in that area?

11 A That's close. First of all, we took a count of host  
12 remote architecture.

13 Q Okay.

14 A And did not -- I'm going to --

15 Q Let me walk through it, as I understand it. Let me go  
16 to the host remote. You'd recommend one T-1 line from  
17 every host remote to the host office, and then from the  
18 host office a T-1 for every wireless company; is that  
19 correct?

20 A No. I think it might be helpful if we do a little  
21 review of switching network architecture so that we all  
22 have a common understanding of what these words mean.  
23 Host, remote, satellite, tandem have been used today  
24 and through the testimony that I've heard in  
25 inconsistent ways. And I think we do not benefit --

1 A I heard a portion of his testimony.

2 Q Yeah. He basically testified that he would use a T-1  
3 from every -- I guess I was using the generic term  
4 exchange, and I believe that's the term he used to,  
5 directly to a point of interconnection or a POI with  
6 every wireless carrier.

7 Did you hear that portion of the testimony?

8 A Yes.

9 Q Okay. And that's not the approach you're taking?

10 A That's correct.

11 Q As I understand -- and you're the technical guy, and  
12 I'm just trying to follow this, but you're recommending  
13 essentially a T-1 from an exchange but not directly to  
14 every wireless carrier; is that correct?

15 A What we're recommending -- what we're -- what we have  
16 assumed in the process of estimating transport costs is  
17 that there would be a T-1 circuit installed between  
18 each host or stand-alone switch that is not subtended  
19 from a local tandem to each wireless carrier that's  
20 currently providing service in the ILEC's territory  
21 that does not already have a direct trunk link into the  
22 ILEC's network.

23 Q Okay. All right. So let's take a real easy example.  
24 Let's take Faith, since they only have one exchange is  
25 my understanding.

1 A One exchange, one switch.  
 2 Q Okay. So yesterday you were here when the manager or I  
 3 believe it was city finance officer testified  
 4 concerning Faith. He said there are two cell companies  
 5 in the area, but I see on the documents as I went  
 6 through it that you'd recommend three T-1s. Why is  
 7 that?  
 8 A My notes show two T-1s.  
 9 Q Well, did you adjust that at some time because that's  
 10 not what was produced to me?  
 11 MS. POLLMAN ROGERS: Are you  
 12 referring to exhibit R-1-TB?  
 13 MR. WIECZOREK: No. I am referring  
 14 to some discovery because his R-1-TB --  
 15 MS. POLLMAN ROGERS: I'm sorry.  
 16 MR. WIECZOREK: -- doesn't believe  
 17 provides that kind of a breakdown.  
 18 MS. POLLMAN ROGERS: So perhaps you  
 19 could show the witness what it is -- to what it is  
 20 you are referring.  
 21 MR. WIECZOREK: I'll show him quick.  
 22 MS. POLLMAN ROGERS: Maybe you could  
 23 tell us as well.  
 24 MR. WIECZOREK: Your discovery  
 25 responses. I've got binders full of the

1 information that he provided through discovery and  
 2 I wasn't going to mark it all but I had to look at  
 3 the numbers for the raw numbers from some of it.  
 4 MS. POLLMAN ROGERS: Are we talking  
 5 about Western Wireless discovery request 1, your  
 6 first discovery request?  
 7 THE WITNESS: I think this is the  
 8 initial response to the initial discovery requests  
 9 from Western Wireless.  
 10 A And I think there's an error on that. My estimate that  
 11 I've shown on Exhibit 2 filed with my direct testimony,  
 12 for example, for Faith for nonrecurring transport  
 13 charges is \$1,401. And that is the cost of two -- that  
 14 is the installation charge for installing two T-1  
 15 circuits from Faith to Rapid City.  
 16 Q All right. So you'd have those -- then the two T-1s  
 17 and you use two T-1s because there's two cell providers  
 18 in the area?  
 19 A Correct.  
 20 Q All right. And let's just continue to use Faith since  
 21 it's small and hopefully easy.  
 22 A Good place to start.  
 23 Q Yes. And then the transport you have under recurring  
 24 is what --  
 25 MR. SMITH: Mr. Bullock, is there a

1 way you can get that mike around to where it's in  
 2 front of your face? Thank you.  
 3 Q The monthly recurring charge is the monthly charge for  
 4 those two T-1s?  
 5 A \$4,052.  
 6 Q Right. So divide it by two for the cost per each T-1?  
 7 A Or price each T-1 and multiply by two for the cost of  
 8 two of them.  
 9 Q Sure.  
 10 A Yeah. \$4,052 is the price of two from Faith to  
 11 Rapid City.  
 12 Q And I apologize, but the breakdown of your numbers at  
 13 least that I can find, I only have the one set and if  
 14 some of these numbers are wrong -- flip in your book.  
 15 At least the last numbers that I have that you have for  
 16 Golden West -- let's make sure I get the right  
 17 Golden West, Golden West WVK, as you refer to them on  
 18 yours merged.  
 19 Now you have a Philip --  
 20 MS. POLLMAN ROGERS: Excuse me. I  
 21 want to make sure I'm on the same page. Are you  
 22 referring now to this exhibit? Is that what you're  
 23 referring to?  
 24 MR. WIECZOREK: His exhibit,  
 25 Commissioners, does not have any breakdowns of the

1 number of T-1s he's requiring. I'm referring to  
 2 some of the discovery so I understand where some of  
 3 the numbers to the Exhibit R-1-TB came from.  
 4 MR. SMITH: Is that what you're  
 5 looking at, or are we looking at Exhibit 2?  
 6 MS. POLLMAN ROGERS: I guess that  
 7 was my question. I'm having a little trouble  
 8 following.  
 9 MR. SMITH: Are we on R-1?  
 10 MR. WIECZOREK: I guess I'm not sure  
 11 what Exhibit 2 you're looking at. Oh, you're  
 12 talking about Exhibit 2 with the direct? No. I'm  
 13 working --  
 14 Q Let me ask you this, Mr. Bullock. It's my  
 15 understanding R-1-TB incorporates the most recent  
 16 information you have on the costs of all the companies  
 17 you represent with the exception, of course, of the  
 18 corrections that you say that you've caught just  
 19 recently?  
 20 A That's correct.  
 21 Q So I am going to work exclusively off of this document  
 22 since it has all the companies, and it's the most  
 23 recently correct.  
 24 MR. SMITH: Thank you.  
 25 MR. WIECZOREK: I'll refer to some

1 of the discovery because the raw numbers don't  
 2 appear in that document.  
 3 **Q** So in the Golden West merged under Philip you call for  
 4 five T-1s at least in the last discovery responses I  
 5 have. Do you still call for five T-1s?  
 6 **A** Yes.  
 7 **Q** Now would those be the five T-1s -- would those five  
 8 T-1s supposedly go to cellular companies operating in  
 9 that area?  
 10 **A** Yes. We made the assumption that when a telephone  
 11 company reported to us the number of wireless carriers  
 12 operating in their service territory that all carriers  
 13 operated in all exchanges of the rural telephone  
 14 company. We made that assumption. That's true.  
 15 **Q** So you don't have any idea whether there's actually  
 16 five cellular companies operating in the Philip  
 17 exchange area, do you?  
 18 **A** As a way of checking this assumption I went to the  
 19 Cellular One website and looked at the map of  
 20 South Dakota and made the observation that the entire  
 21 state is covered with service availability and that,  
 22 for example, Western Wireless would have the capability  
 23 of providing either roaming or direct service in all  
 24 parts of the state.  
 25 **Q** Well, so are you saying if there's a cellular company

1 out of California, just out of California but that can  
 2 roam nationwide, it should have a point of interconnect  
 3 with every one of these exchanges?  
 4 **A** No.  
 5 **Q** Well, but that's essentially what you're saying here,  
 6 that -- you've picked five for Philip. Where are these  
 7 five companies coming from? Wouldn't you agree that if  
 8 you are on roam on a Western Wireless tower and you  
 9 have that direct point of interconnect, you're going to  
 10 send that over that same point of interconnect, you're  
 11 not going to put it over another point of interconnect  
 12 just because it's on roam with Cellular One?  
 13 **A** No. You're correct.  
 14 **Q** So how are you getting these numbers of T-1s in all of  
 15 these exchanges?  
 16 **A** Well, I'd go back to my earlier statement that we made  
 17 the assumption that when a company reported to us the  
 18 quantity of wireless carriers providing service in the  
 19 territory of that rural telephone company that all of  
 20 the reported wireless carriers provided service to all  
 21 of the exchanges.  
 22 **Q** That's an assumption.  
 23 **A** That's right.  
 24 **Q** You have nothing to back that up.  
 25 **A** That's right.

1 **Q** And so you also report the need for five T-1s in Wall.  
 2 **A** Uh-huh.  
 3 **Q** That's a yes?  
 4 **A** Yes. Five in Wall.  
 5 **Q** What are the supposed five cell companies operating in  
 6 the Wall area?  
 7 **A** The five companies that were reported to us for  
 8 Golden West -- yeah. That's a Golden West.  
 9 **Q** Right. I'm still on the same exchanges. I'll tell you  
 10 if I move to a different number.  
 11 **A** Verizon, Western, Viaero, Qwest, and AT&T. Those are  
 12 the five wireless companies that were reported to us as  
 13 providing service in Golden West's territory.  
 14 **Q** Do you know whether AT&T simply roams off of existing  
 15 towers of Cellular One and Verizon?  
 16 **A** No, I don't.  
 17 **Q** So if you actually installed that T-1 in Wall and all  
 18 that AT&T does is roam, that T-1 would just sit empty;  
 19 correct, if there's no direct AT&T traffic?  
 20 **A** I don't know.  
 21 **Q** You report four T-1s necessary for the Pine Ridge  
 22 exchange.  
 23 **A** That's right.  
 24 **Q** What four cell companies supposedly are operating on  
 25 Pine Ridge?

1 **A** It would be four of the five that I just read off.  
 2 **Q** Excluding which one?  
 3 **A** One company has a direct connection.  
 4 **Q** Western Wireless has a direct connection down there,  
 5 doesn't it?  
 6 **A** I could find that somewhere in my notes.  
 7 **Q** All right. Assume Western Wireless has a direct  
 8 connection.  
 9 **A** Okay.  
 10 **Q** Do you know whether AT&T simply roams on Western  
 11 Wireless's system down there?  
 12 **A** I don't.  
 13 **Q** So if AT&T roams off of Western Wireless, a direct  
 14 connection already exists, doesn't it?  
 15 **A** That would be right.  
 16 **Q** And if you eliminate these T-1s, every time you  
 17 eliminate these T-1s your monthly transport costs drops  
 18 also, doesn't it?  
 19 **A** That's true.  
 20 **Q** You did no independent verification of what cell  
 21 companies were operating in any of the areas you did  
 22 your cost analysis for, did you?  
 23 **A** We asked the companies to report.  
 24 **Q** That's not my question. Did you do an independent  
 25 verification that they're actually operating in those

1 areas?  
 2 A No.  
 3 Q Were you here the other day when Mr. Houdek testified  
 4 on behalf of Venture?  
 5 A I believe so.  
 6 Q Did you know that in their analysis they were actually  
 7 counting cellular companies that didn't even have a  
 8 license to broadcast in the requiring POIs?  
 9 MS. POLLMAN ROGERS: I'm going to  
 10 object to that question as, first of all, not  
 11 relevant, and I'm not sure if this witness was  
 12 present when that testimony was discussed.  
 13 MR. SMITH: I'm going to sustain  
 14 that.  
 15 Q So today you cannot verify to this Commission how many  
 16 of these point of interconnects are actually needed.  
 17 A I don't have independent knowledge of which of these  
 18 wireless carriers operate in individual exchanges.  
 19 Q Right. And, in fact, it's not even -- you would agree  
 20 with me that roam wouldn't count as operating under  
 21 your proposal to require a point of interconnect;  
 22 correct?  
 23 A That's true. Roaming is not direct coverage.  
 24 Q Yes. Looking again at your Exhibit R-1-TB.  
 25 A Uh-huh.

1 Q Under your LNP nonrecurring costs you have a cost line  
 2 item that says customer notification costs. Do you see  
 3 that?  
 4 A Yes.  
 5 Q And that's to do the -- like a flyer explaining LNP and  
 6 why that's appearing on the bill; correct?  
 7 A Right.  
 8 Q And 1,400 is a reasonable amount to provide that kind  
 9 of a flyer. Wouldn't you agree, \$1,400?  
 10 A For McCook?  
 11 Q Yes.  
 12 A That's what we estimated their cost of producing the  
 13 mailing, paying postage.  
 14 Q Yeah. It wouldn't be appropriate to set one standard  
 15 fee for that for each of your carriers because they  
 16 differ in size?  
 17 A Different numbers of customers that would have to  
 18 receive the notice.  
 19 Q You were here earlier when some of the managers  
 20 testified about the numbers of different direct  
 21 interconnects. You said direct interconnects are more  
 22 reliable; correct?  
 23 A Yes.  
 24 Q Do you know whether McCook has a direct interconnect  
 25 with Alliance?

1 A Whether McCook has a direct interconnect with --  
 2 Q With Alliance.  
 3 A Alliance? Alliance Telephone Company?  
 4 Q Yes.  
 5 A No, I don't.  
 6 Q Well, I'm sure you would agree there's probably  
 7 people -- those areas are fairly close -- that call  
 8 each other in those areas?  
 9 A I'm not familiar with their proximity.  
 10 Q Assume people in the Alliance Telephone area actually  
 11 call people in the McCook area. You're not suggesting  
 12 they get a direct interconnect because it's a more  
 13 reliable interconnection, are you?  
 14 A Is this a toll call?  
 15 Q Yeah. Let's assume it's a toll call. I mean, I'm just  
 16 talking about the elements you laid down. You said the  
 17 direct interconnect's more reliable, and that's one of  
 18 the issues. But you would agree direct interconnects  
 19 are not needed between every phone company.  
 20 A In telephone toll traffic there's a considerable track  
 21 record of interexchange carriers providing toll  
 22 service, and I think it's safe to assume that the bugs  
 23 have been worked out of the interfaces that are  
 24 required between exchange access service providers such  
 25 as the local telephone companies were talking about

1 here today and interexchange carriers such as AT&T and  
 2 Sprint that reliably pass information back and forth to  
 3 enable the proper routing of calls and the proper  
 4 rating and identity of the calling party.  
 5 In terms of the exchange of local traffic  
 6 through an intermediate tandem service provider, I'm  
 7 not so sure that's a safe assumption to make.  
 8 Q Yeah. But you're endorsing and trying to have this  
 9 Commission adopt what you're proposing here by the  
 10 argument it's not just for LNP, it could be for other  
 11 calls too.  
 12 A I'm not trying to convince the Commission of any  
 13 particular notion with respect to transport, except to  
 14 give an estimate of what transport of local traffic  
 15 between a local exchange company and a number of  
 16 wireless providers might be.  
 17 Q Okay. One of the second five items you hit was this,  
 18 you have existing agreements that your proposed method  
 19 follows; correct?  
 20 A You mean, the existing Interconnection Agreements?  
 21 Q Right. And so, in fact, the only method you looked at  
 22 for solving this LNP transport problem was the method  
 23 that you're suggesting today here for the Commission;  
 24 correct?  
 25 A That's true.



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- 1 Q Because the interconnect agreement -- well, I'll back  
2 up. You didn't even look at what Western Wireless has  
3 proposed when you were doing your cost analysis because  
4 it's your belief the Interconnection Agreement doesn't  
5 allow that. Is that a fair statement?  
6 A I would say that the reason that we used the approach  
7 we did in estimating transport costs -- I should say  
8 the reasons that we used the approach we did in  
9 estimating transport costs are the reasons that I  
10 outlined earlier.  
11 Q Right. But the reason you eliminated -- you wouldn't  
12 have even looked at the Western Wireless one because it  
13 doesn't fit within your five criteria. Let's just ask,  
14 did you look at the option that Western Wireless has  
15 proposed when you were doing your cost analysis?  
16 A It occurred to us that traffic between -- traffic  
17 originating in a wireline exchange carrier destined for  
18 a wireless carrier could go through an intermediate  
19 tandem provider, but when the question arose what's  
20 that going to cost, we did not find any evidence that  
21 there is a current service offering available from  
22 Qwest or SDN and so we didn't think it was a reasonable  
23 approach to imagine that such a service offering might  
24 exist or might be negotiated.  
25 Q Do you ever call vendors and get ideas of what they

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- 1 might have or what they might do on services?  
2 A No.  
3 Q You never call vendors?  
4 A Well, we didn't call Qwest and ask them if they would  
5 be interested in providing a local transport tandem  
6 service.  
7 Q You also talked about the tariffs because you know the  
8 tariffs are T-1 and, in fact, that's how you get your  
9 recurring costs is because there's a set minimum tariff  
10 on a T-1 line; correct?  
11 A That's right.  
12 Q No matter if there's nothing going through that or if  
13 there's -- well, there's a certainly capacity of that  
14 T-1, correct, but if there's nothing going through it,  
15 you pay that every month; right?  
16 A That's true.  
17 Q Did you ever look up the Qwest tariffs to see what you  
18 might be able to get on Qwest charges if you routed the  
19 traffic as suggested by Western Wireless?  
20 A We looked at their -- I think it's called local  
21 interconnection service, license service, and concluded  
22 that that did not address the needs of the rural  
23 telephone companies that are spread across the state,  
24 that it is a -- that it is confined to the service  
25 offering as we understand it is confined within a rate

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- 1 center or within a local calling area such as, you  
2 know, Sioux Falls.  
3 Q But you never called Qwest to see if they had a  
4 different rate or would be willing to carry the  
5 traffic; correct?  
6 A We relied on publicly available information.  
7 Q Yeah. Do you work for any companies in the State of  
8 Minnesota, any ILECs?  
9 A No. Let me make one modification to the answer. We're  
10 working on behalf of Hills Telephone Company.  
11 Q Okay. Has Hills Telephone Company joined in the  
12 Minnesota Independent Coalition petition in front of  
13 the Minnesota --  
14 A I believe so.  
15 Q Have you ever looked at what Minnesota Independent  
16 Coalition is recommending as a solution for LNP?  
17 A No. And the reason I bring up Hills is --  
18 Q There's not a question pending. You stated on one of  
19 your internal costs that you figured 120 man hours to  
20 do a certain task. Do you remember that?  
21 A Intercarrier testing.  
22 Q Okay. And you used 120 man hours for every company?  
23 A Uh-huh. That's right.  
24 Q So you used 120 man hours for Faith, which has just the  
25 one switch; correct?

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- 1 A Correct.  
2 Q And you used 120 man hours for the Golden West  
3 Companies which have multiple switches.  
4 A Correct.  
5 Q No economies of scale there.  
6 A It's pretty much the same amount of work whether you  
7 have 10 switches or one switch to work out the kinks in  
8 understanding what you must do to hand off traffic from  
9 one local service provider to another local service  
10 provider, which is something that if not all, most of  
11 these companies have not done before.  
12 Q Okay. So all of these Golden West related companies,  
13 they could have 120 hour billing for that because they  
14 could economize of scale on that?  
15 A Could you repeat that.  
16 Q Well, there's multiple Golden West -- there's  
17 Golden West the Armour one, Golden West the Kadoka one,  
18 Sioux Valley, which is part of Golden West. So they  
19 could just do the 120 hours one time between those  
20 three Dockets, couldn't they?  
21 A The reason that Golden West family of companies is  
22 grouped into three groups is that we understood the  
23 Golden West Vivian and Kadoka group to share a staff  
24 among the three of them, the Armour  
25 Bridgewater-Canistota Union group to share a staff

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1 among them, and Sioux Valley was separate, a distinct  
 2 staff. And when I say staff I mean switching  
 3 technicians and the people who would be primarily  
 4 involved with this intercarrier testing work.  
 5 **Q** You also talked about man hours to fill out forms and  
 6 enter into agreements with wireless carriers on  
 7 porting; correct?  
 8 **A** Correct.  
 9 **Q** Are you familiar with SDTA here in South Dakota?  
 10 **A** Yes.  
 11 **Q** Do you know that SDTA has negotiated some of these  
 12 agreements with wireless carriers so their individual  
 13 carriers don't have to do that?  
 14 **A** I was not aware of that.  
 15 **Q** That would save everybody costs, wouldn't it, if you  
 16 had one person negotiate on behalf of all the  
 17 companies?  
 18 **A** I would have to know about it before I could answer  
 19 that question.  
 20 MR. WIECZOREK: That's all I have.  
 21 MR. SMITH: It is after noon. Do  
 22 you want to take a break now?  
 23 MR. WIECZOREK: Just with the  
 24 understanding that Mr. Williams has a flight to  
 25 catch so if we take a break and then come back,

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1 getting him on the stand --  
 2 CHAIRMAN SAHR: Let's go off the  
 3 record.  
 4 (Discussion off the record)  
 5 (A lunch recess is taken)  
 6 MR. SMITH: We're back in session  
 7 following our noon recess. Mr. Bullock, you're  
 8 still under oath.  
 9 Did I ask you, Mr. Koenecke, if you had  
 10 questions?  
 11 MR. KOENECKE: You did not.  
 12 MR. SMITH: I have done so.  
 13 MR. KOENECKE: I will.  
 14 CROSS-EXAMINATION  
 15 BY MR. KOENECKE:  
 16 **Q** Mr. Bullock, my name is Brett Koenecke. I'm a lawyer  
 17 from Pierre, and I represent Midcontinent  
 18 Communications.  
 19 **A** Good afternoon.  
 20 **Q** How are you today?  
 21 **A** Good.  
 22 **Q** Good. I want to direct your attention to your  
 23 Exhibit 2 of your direct testimony, I believe it is.  
 24 And I'm just looking at the first --  
 25 **A** Excuse me. I may need some help finding what document

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1 you're referring to.  
 2 **Q** I'm looking at Alliance merged Exhibit 2, and I'm just  
 3 using it for demonstrative purposes. It would be  
 4 Exhibit 2 is your direct testimony, isn't it?  
 5 **A** Okay.  
 6 MR. SMITH: Which number is  
 7 Alliance?  
 8 MR. KOENECKE: It's just the top  
 9 one.  
 10 **Q** With respect to the costs for local number portability  
 11 that you've outlined there, which of those, if any,  
 12 would be applicable to be representative of the costs  
 13 in wireline to wireline portability?  
 14 **A** I would say all of these costs except transport. My  
 15 understanding is in an environment where you have  
 16 wireline to wireline number porting there is a wireline  
 17 competitor with a physical presence in the exchange  
 18 where the incumbent provides service. Otherwise, the  
 19 new competitor wouldn't be able to provide service  
 20 there without a physical presence. And so the  
 21 transport costs would be greatly reduced.  
 22 **Q** Would they completely go away?  
 23 **A** Any time you connect networks together you bear  
 24 additional costs simply due to connecting them  
 25 together. Competition is not always a cost reducer.

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1 Because of the large fixed costs associated with  
 2 offering a service like telecommunications, when you  
 3 connect two competitors together you have costs  
 4 associated with the physical connection.  
 5 So transport wouldn't be zero, but you would  
 6 not have these long distance transport requirements  
 7 that we do if we're talking about a competitor whose  
 8 point of interconnection is far away from the exchange.  
 9 **Q** I didn't see anywhere in your testimony, either direct  
 10 or rebuttal, where you've calculated or made the  
 11 calculations with respect to a wireline to wireline  
 12 portability. Is that correct, you have not made those  
 13 calculations?  
 14 **A** That's true. We did not identify any costs as being  
 15 specifically related to wireline to wireline  
 16 portability.  
 17 **Q** Okay. And that goes for all of the companies on whose  
 18 behalf you're here today?  
 19 **A** Yes. That would be generally true of all of the  
 20 Petitioners.  
 21 **Q** I'm trying to recall where in your matrix of costs the  
 22 T-1s are reflected.  
 23 **A** In the Exhibit 2 documents?  
 24 **Q** Yes.  
 25 **A** We used the term nonrecurring transport charges to

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1 refer to the installation costs of the T-1 circuits,  
 2 and we used the term transport to refer to the monthly  
 3 recurring costs of those T-1 circuits.  
 4 **Q** So the nonrecurring transport charges on Exhibit 2 for  
 5 Alliance merged or any other Exhibit 2 would be not  
 6 applicable in wireline-to-wireline LNP?  
 7 **A** There would be -- depending on how far away this local  
 8 wireline competitor's point of interconnection is from  
 9 the incumbent LEC's central office, there would be some  
 10 amount of transport expense. But essentially it would  
 11 be from one side of the exchange to the other side of  
 12 the exchange at most.  
 13 **Q** The estimates that you've put together are simply  
 14 estimates that you've got no experience with in the  
 15 shall we say real world yet; is that correct?  
 16 **A** Well, I have some personal experience with developing  
 17 new procedures in the small organization. I have some  
 18 idea from personal experience how long it takes to  
 19 train people on new processes. But in terms of  
 20 implementing this particular service, I have not  
 21 implemented local number portability in any  
 22 environment.  
 23 MR. KOENECKE: Nothing further.  
 24 Thank you.  
 25 MR. SMITH: Ms. Wiest.

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1 MS. AILTS WIEST: Thank you.  
 2 CROSS-EXAMINATION  
 3 BY MS. AILTS WIEST:  
 4 **Q** Mr. Bullock, how did you come up with your estimated  
 5 ports, your estimation for number of ports for each  
 6 company?  
 7 **A** We assumed that if the companies are denied suspension  
 8 of LNP requirements that the wireless competitors, the  
 9 companies that provide service in the telephone  
 10 companies' service areas, are likely to begin a fairly  
 11 aggressive marketing campaign to attract customers and  
 12 that despite the fact that very little interest has  
 13 been expressed up to this point, that we're aware of  
 14 among the customer base of the rural telephone  
 15 companies, such an aggressive marketing campaign may  
 16 generate some interest and may generate some customers'  
 17 porting activity.  
 18 And we also assumed that some of those  
 19 customers would port back to the wireline telephone  
 20 company. Now we didn't do any really scientific  
 21 analysis of this, but we used our judgment. These are  
 22 just judgments, estimates, because there is no -- there  
 23 is no track record in number porting in rural areas.  
 24 We can't base this on experience. But the estimates  
 25 that we have set forth include porting out to wireless

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1 carriers and porting back. Not 100 percent.  
 2 We don't expect everyone who ports out to  
 3 come back, but we would assume some portion of those  
 4 who port out to a wireless carrier will change their  
 5 minds and port that number back to a wireline phone.  
 6 **Q** So was your number dependant on the number of wireless  
 7 carriers currently serving the area?  
 8 **A** No.  
 9 **Q** Okay. But it wasn't specific for Western Wireless, it  
 10 was assuming those carriers were operating, a number of  
 11 carriers were operating in the area?  
 12 **A** Well, our estimates of porting volumes are irrespective  
 13 of the identity of any particular wireless carrier.  
 14 **Q** For the nonrecurring transport charges, for each T-1  
 15 was that number you assigned to that \$564; is that  
 16 correct?  
 17 **A** Not in all cases.  
 18 **Q** Is it within that range, around that?  
 19 MR. SMITH: Mr. Bullock, can I have  
 20 you move that mike a little closer too, please.  
 21 Thank you.  
 22 **A** You're talking about nonrecurring?  
 23 **Q** Yes.  
 24 **A** Transport charges per T-1?  
 25 **Q** Yes.

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1 **A** I don't see 500. Did you mention \$534?  
 2 **Q** \$564.  
 3 **A** 64. \$564 represents the sum of two numbers.  
 4 **Q** Okay.  
 5 **A** One of those numbers is the price of the nonrecurring  
 6 price of a NECA channel termination, and the other  
 7 number is the price of an RBOC channel termination. So  
 8 the \$564 represents part of the cost of installing a  
 9 T-1 from an independent LEC to an RBOC end point.  
 10 **Q** Okay.  
 11 **A** Some of the T-1s that we priced are within an ILEC's --  
 12 an independent telephone company's service area. These  
 13 are in the cases where we assumed that a phone company  
 14 that currently has a local tandem that's part of their  
 15 network to gather up toll traffic from other end  
 16 offices for delivery to SDN would utilize the same  
 17 local tandem switch for gathering up local traffic for  
 18 delivery over this T-1 off to Sioux Falls or  
 19 Rapid City, whichever half of the state the wireless  
 20 carrier's point of interconnection is assumed.  
 21 Part of our estimate of transport costs  
 22 includes additional T-1 circuits from the end offices  
 23 to the local tandem to carry this new local traffic.  
 24 So in those cases we have the price of a NECA channel  
 25 termination at each end of the T-1.

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1 Q Okay.

2 A Now in the case of a T-1 that goes between an

3 independent telephone company and a Qwest end point

4 we've also included the access order charge of \$136 as

5 part of the total price of installing that circuit. So

6 the total for a T-1 circuit going from an independent

7 telephone company to a Qwest end point is \$700.25.

8 Q Thank you. And then when you came up with your cost

9 per line per month is that intended to reflect an

10 actual end-user surcharge?

11 A We calculated two different kinds -- actually four

12 different kinds of LNP costs per line per month

13 amounts.

14 Q Right. If you just look at the one excluding

15 transport?

16 A Okay.

17 Q With or without surcharges and taxes, is that what you

18 would expect to actually be something that a company

19 could charge as a surcharge?

20 A No.

21 Q Okay.

22 A This is intended to represent an estimate of what the

23 surcharge might be. My advice to an independent

24 telephone company would be to not base their surcharge

25 on an estimate that's prepared in advance of

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1 implementation. My advice to them would be to wait to

2 calculate their surcharge amount and file a tariff

3 until after they have implemented LNP and they have

4 actual historical cost information for the

5 implementation phase and some amount of a track record

6 of ongoing costs that they could project into the

7 future, estimate how much ongoing cost would there be

8 over five years and use that as the basis of their

9 tariff filing.

10 Q And I know in your summary statements you listed the

11 advantages of going through direct connections. What

12 would be the advantages of using an SDN or Qwest

13 tandem?

14 A It would probably be lower cost. Depending on the

15 capability of the tandem switch, you might be able to

16 obtain from the tandem provider some information about

17 the source of traffic that's coming to the independent

18 telephone company. I can't think of any other

19 advantages.

20 Q Your second one, how is that an advantage over a direct

21 connection? Wouldn't you be able to do that with a

22 direct connection?

23 A Well, with a direct connection there would be no tandem

24 service provider.

25 Q Yeah. I know.

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1 A And so there would be no tandem service provider from

2 whom to obtain information.

3 Q And then could you go to page 18 that would be on your

4 introductory, Bullock Exhibit 1. You discuss your

5 options A and option B around lines 15 and 16?

6 A Yes.

7 Q Could you just briefly explain what is the difference

8 between option A and option B? Are either one of those

9 an automated system or not?

10 A Option A is an arrangement whereby the independent --

11 or the service provider who's porting numbers would

12 place a telephone call and speak with a human being and

13 communicate information over the phone about a number

14 porting event.

15 Option B --

16 Q Just one question on that. That wouldn't be the use of

17 the number portability administration help desk, would

18 it? That's something different?

19 A I'm bound by a nondisclosure agreement. I can't

20 reveal --

21 Q Go ahead.

22 A -- the information that I agreed not to disclose.

23 Option B is a service offering whereby the telephone

24 service provider uses a web browser with a job

25 application embedded in it to gain dial-up access to

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1 the number portability administration center's computer

2 for the purpose of performing inquiries about pending

3 porting events and entering information into the number

4 portability administration center's computer regarding

5 new porting events.

6 Q Is that considered to be an automated system or not?

7 Do you know?

8 A I am sure some people would consider it to be an

9 automated system, but I should add that on my way to

10 Pierre I stopped in at a telephone company's office

11 where they are using what I call SOA option B and heard

12 a number of complaints about the difficulty that they

13 have in terms of time delays and due to the dial-up

14 nature of the connection some questionable reliability

15 about that connection and, you know, an extended call

16 basis. If you're familiar with dial-up Internet, I'm

17 sure you can appreciate what I'm talking about.

18 Another of their complaints was in order to

19 use this SOA option B they had to go to the back room

20 and find an old computer because it requires an older

21 version of Windows that they -- than what they use in

22 the front office and had to find an old version of

23 Netscape to run it on.

24 Q Uh-huh.

25 A So it utilizes computer technology. You're not

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1 entering porting information over a telephone to  
 2 another human being. And they also pointed out that  
 3 even though they're using this SOA option B, which is a  
 4 computer-based mechanic mix, that there are cases where  
 5 they have to utilize what I've called SOA option A and  
 6 actually place a call to a person and discuss the  
 7 information that has been entered on the computer  
 8 screen.  
 9 So I wouldn't call SOA option B a fully  
 10 automated SOA.  
 11 **Q** Just going back to option A, if the FCC would shorten  
 12 the porting interval, would the companies still be able  
 13 to utilize option A? Do you know?  
 14 **A** My understanding of the proposal that is currently in  
 15 front of the North American Numbering Council regarding  
 16 shortening the porting interval for wireline ports from  
 17 four days to two days would require investments in  
 18 computer systems unrelated to the service order  
 19 administration function.  
 20 **Q** Oh, okay.  
 21 **A** But the service order administration function would not  
 22 really be a factor in the time frames that the current  
 23 proposal lays out. The computer system investments  
 24 that I'm talking about in association with reducing the  
 25 porting interval down to two days are to facilitate a

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1 replacement of what we have in our estimates envisioned  
 2 as an exchange of facsimiles between a new service  
 3 provider and old service provider for the local service  
 4 request and confirm order confirmation going back and  
 5 forth, to replace that with an electronic interface  
 6 between computer systems.  
 7 And so under that scenario there would be  
 8 significant additional costs that are not part of any  
 9 of these estimates.  
 10 MS. AILTS WIEST: Thank you. That's  
 11 all I have.  
 12 MR. SMITH: Commissioners, do you  
 13 have questions of Mr. Bullock?  
 14 Chairman Sahr.  
 15 CHAIRMAN SAHR: I have a couple.  
 16 Mr. Bullock, are you familiar with the idea of  
 17 interim number portability?  
 18 THE WITNESS: Somewhat.  
 19 CHAIRMAN SAHR: In the wireline to  
 20 wireline context could you talk about how that  
 21 would work and what the costs might be associated  
 22 with that?  
 23 THE WITNESS: Well, my understanding  
 24 is, I think, similar to what I heard you say  
 25 earlier about remote call-forwarding.

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1 CHAIRMAN SAHR: Yes.  
 2 THE WITNESS: And the scenario also  
 3 that I think Dennis Law described where a call  
 4 originating from let's say California to a number  
 5 that has been ported out of switch A and into  
 6 switch B would have to terminate first at switch A  
 7 and then be call-forwarded over some facility to  
 8 switch B, that is switch A, the switch from which  
 9 the number has been ported, is still a necessary  
 10 part of the call train from calling party to called  
 11 party.  
 12 Further, I think the FCC took note of the fact  
 13 that there are some technical shortcomings  
 14 associated with what they call interim number  
 15 portability or this remote call-forwarding method  
 16 and back in the late '90s indicated that it was not  
 17 an appropriate mechanism for a reliable  
 18 implementation of the number portability capability  
 19 as envisioned by the '96 Act.  
 20 CHAIRMAN SAHR: What are the  
 21 limitations in particular?  
 22 THE WITNESS: When you take this  
 23 incoming call from California and terminate it on  
 24 switch A, what follows in the handoff or the  
 25 forwarding of the call from switch A to switch B is

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1 that you lose some information about the original  
 2 calling party.  
 3 CHAIRMAN SAHR: Caller ID?  
 4 THE WITNESS: Caller ID, calling  
 5 name delivery, that sort of thing.  
 6 CHAIRMAN SAHR: The question that I  
 7 think is probably most significant is what are the  
 8 cost effects of that type of scenario?  
 9 THE WITNESS: I think the cost  
 10 effects would vary greatly, depending on the  
 11 particular calling scenario that you're  
 12 envisioning. Is this a call from California to a  
 13 South Dakota number that's been ported from a  
 14 wireline carrier in a particular exchange to  
 15 another wireline carrier in the same exchange, or  
 16 are you talking about a call that originates in a  
 17 South Dakota exchange to a number in that same  
 18 exchange that's been ported to a wireless carrier?  
 19 I'm sorry. Are you excluding porting to wireless  
 20 carriers in your consideration here?  
 21 CHAIRMAN SAHR: Yes.  
 22 THE WITNESS: So you're --  
 23 CHAIRMAN SAHR: Wireline to  
 24 wireline.  
 25 THE WITNESS: Only?

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1 CHAIRMAN SAHR: Right.

2 THE WITNESS: At the moment I don't

3 see any significant cost differences between this

4 interim remote call-forwarding mechanism versus

5 what's called the long-term number portability

6 method with the location routing number

7 architecture.

8 But, as I said before, I don't have a full

9 understanding of the implications. At this point I

10 don't see differences.

11 CHAIRMAN SAHR: So you're saying

12 that it would cost the same as your other cost

13 estimates that you've --

14 THE WITNESS: I'm saying that I'm

15 unable to say it would be different. I'm not

16 saying it would be the same. I'm saying I don't

17 know enough to identify any differences.

18 CHAIRMAN SAHR: Can most of the

19 companies currently call-forward --

20 THE WITNESS: I know for certain

21 that Seaman switches and Nortel DMS-10s -- Seaman's

22 DCO switches, which were utilized by Sioux Valley,

23 and Nortel DMS-10 switches, which were used by

24 several of the Petitioners I'm testifying for, do

25 have remote call-forwarding capability.

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1 I think it's also true that Mytel switches

2 have remote call-forwarding capability, but I don't

3 have personal experience. I don't know.

4 CHAIRMAN SAHR: And I appreciate

5 your acknowledging where you're not entirely sure.

6 Where that technology is available can you identify

7 some other significant costs, or are we talking

8 about it being relatively inexpensive or do you not

9 know?

10 THE WITNESS: As I said before, I am

11 not able to identify any significant cost

12 differences between the two methods in terms of --

13 are you talking about transport or all costs?

14 CHAIRMAN SAHR: All costs.

15 THE WITNESS: Oh, I'm sorry. With

16 the interim number portability technology there is

17 no need to buy this LNP software and install it in

18 your switch. There is further no need to launch

19 queries. What we call the LNP query expenses would

20 not occur. I think all of the other cost

21 categories would apply.

22 CHAIRMAN SAHR: So you're saying the

23 savings would be in those areas you'd still have

24 transport issues?

25 THE WITNESS: Well, in the case of

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1 wireline-to-wireline porting, as I said before, the

2 cost of transporting within an exchange I think

3 it's safe to say is far less than transporting

4 50 miles, 100 miles, 200 miles across South Dakota.

5 CHAIRMAN SAHR: Because in some of

6 these Dockets, as I'm sure you know, we are not

7 only dealing with wireline to wireless but also

8 wireline-to-wireline porting.

9 THE WITNESS: Yes.

10 CHAIRMAN SAHR: So what I'm trying

11 to do is get a grasp on that because I'm

12 anticipating that that's going to be proposed as a

13 lower cost or very low cost alternative by one of

14 the Petitioners. I'm just trying to get your

15 opinion as to whether or not that is an accurate

16 statement when comparing it to the economic

17 benefits that may follow that type of competition.

18 THE WITNESS: Yes. As you're

19 speaking, I'm thinking, and in our analysis of

20 switch upgrade costs in most cases, and I'll

21 exclude Mytel for a second because they're

22 different, but in the Seaman's and Nortel switches

23 with interim number portability you would not -- as

24 I said a moment ago, you would not have the LNP

25 software that the switch manufacturers sell. That

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1 would not be required for interim number

2 portability.

3 Further, you would not be required to perform

4 any of these translations involving the location

5 routing number. There would not be a location

6 routing number in the interim number portability

7 situation. And so the entire cost category of

8 switch upgrade costs would go to zero.

9 CHAIRMAN SAHR: What are the

10 potential downsides to an order that would include

11 interim number portability? Is there some big

12 picture part of this that I'm missing if the costs

13 are lower?

14 THE WITNESS: You're asking me

15 what's the downside, what are the disadvantages --

16 CHAIRMAN SAHR: Well, is there some

17 reason why -- I'll pose it this way: If we were to

18 look on the wireline to wireline context in some of

19 these exchanges where the upgrades that you

20 outlined would not be necessary and were to

21 evaluate that and consider using this remote

22 call-forwarding as a method of number portability

23 and realizing I do understand the loss of caller ID

24 information and those type of things that can

25 happen, what are some of the other downsides to

1 pursuing that type of number portability?

2 I'm just trying to make sure I get both sides  
3 of the story here as far as the remote  
4 call-forwarding's concerned.

5 THE WITNESS: Well, due to the  
6 nature of the routing of the calls, as I said a  
7 moment ago, the switch from which the number has  
8 been ported remains involved in each call to that  
9 number. There's no way to bypass the old service  
10 provider's switch.

11 And so in general that represents a kind of  
12 inefficient utilization of switching resources.  
13 I'm not certain how significant that is in the case  
14 of a small telephone company. There may be  
15 situations where this sort of pass-through traffic  
16 would create a burden, and I'm assuming there would  
17 be situations where it would not. But my problem  
18 is in identifying those for you. I just don't know  
19 enough about the individual characteristics of the  
20 companies to be able to identify them.

21 MR. SMITH: Mr. Bullock, I have a  
22 couple of questions following up on Chairman Sahr.  
23 I mean, one of the negatives of the interim  
24 solution -- you basically touched on that -- is  
25 that the functionality that the FCC construed the

1 Congress as wanting under its local number  
2 portability regime is just not really there, is it,  
3 with the interim solution?

4 THE WITNESS: That's the call that  
5 the FCC made.

6 MR. SMITH: I mean, do you share  
7 that opinion?

8 THE WITNESS: Yes.

9 MR. SMITH: So the person who elects  
10 to use the porting option, he's not going to get  
11 the same bang for his buck out of an interim  
12 solution as true LNP.

13 THE WITNESS: I think that's a fair  
14 statement, yes.

15 MR. SMITH: I mean, there would be  
16 some burden on the switch with the interim  
17 solution, but in the case at least of incoming toll  
18 traffic would there not be an offsetting benefit in  
19 the form of terminating access revenues?

20 MS. POLLMAN ROGERS: Excuse me just  
21 a minute. Could we clarify I was of the impression  
22 that we were talking about wireline to wireline  
23 here.

24 MR. SMITH: Right.

25 MS. POLLMAN ROGERS: Okay. I just

1 wanted to clarify that.

2 MR. SMITH: Exactly.

3 THE WITNESS: Yes. There would  
4 still be terminating access revenue for the owner  
5 of what I've called switch A.

6 MR. SMITH: Thank you. Ms. Rogers.

# REDIRECT EXAMINATION

7 BY MS. POLLMAN ROGERS:

8 **Q** Mr. Bullock, I have just a few questions on redirect.  
9 First of all, with regard to some questions addressed  
10 to you concerning CMRS carriers or wireless carriers in  
11 the service areas of the companies that you represent  
12 here.

13 My question to you is did you ask for those  
14 wireless carriers that were licensed to do business in  
15 the service areas, or did you ask for those who were  
16 either doing business or providing service within those  
17 areas?

18 **A** The questions we put to the telephone companies when we  
19 asked them to report this information are -- I should  
20 say the instructions that we provided to the telephone  
21 companies when we asked them to provide this  
22 information is contained in what I marked as Exhibit C2  
23 to my introductory direct testimony. And in that  
24 exhibit where we describe -- where we're asking the  
25

1 companies to fill in wireless carriers requesting LNP,  
2 the instruction is, "Enter under primary data the  
3 number of wireless carriers from whom you have received  
4 requests for LNP. Please name these carriers in the  
5 supplemental data column."

6 And there's another question or another  
7 instruction, "Other wireless carriers operating in your  
8 area." And the detailed instruction is, "Enter under  
9 primary data the quantity of other wireless carriers,  
10 those not included in line 10, providing service in the  
11 area served by your company and please name them."

12 And then we asked about direct trunking. But  
13 the phrase we used was --

14 **Q** Operating in your area.

15 **A** Providing service in the area served by your company.

16 **Q** Okay. Providing service. Okay. So if a wireless  
17 carrier was providing service in the service area of  
18 one of the companies that you represent, that carrier  
19 would be sending traffic to and receiving traffic from  
20 the landline LEC; is that correct?

21 **A** That was my understanding.

22 **Q** And they would be using some sort of facilities to do  
23 this?

24 **A** Yes.

25 **Q** You were asked some questions concerning transport

1 costs, and I'd direct you back to your earlier  
2 testimony. And in particular in the summary of your  
3 testimony I believe you stated that you placed the  
4 transport costs for LNP in a different category. I  
5 think that's the way you stated or something to that  
6 effect.

7 My question to you is those transport costs  
8 for LNP that are in a different category, in your  
9 opinion who should bear the cost for the transport  
10 costs?

11 MR. WIECZOREK: I'm going to object.  
12 It's beyond the scope. He was a cost witness.  
13 He's not a public policy witness.

14 MR. SMITH: I'm going to overrule  
15 the objection.

16 A To my understanding there is no obligation placed on  
17 wireline telephone companies to pay the cost of  
18 transporting any kind of traffic beyond the boundaries  
19 of their exchanges.

20 Now when we had some discussion about  
21 wireline-to-wireline porting and I was trying to  
22 characterize transport costs from one side of the  
23 exchange to the other side of the exchange, my  
24 understanding is the two competitors, the incumbent  
25 from the newcomer, would share that transport cost

1 within an exchange. This is local service as both  
2 parties define local service.

3 But when we look at transport costs to  
4 deliver traffic to wireless carriers that have not  
5 already established a point of interconnection within  
6 the boundaries of the exchange where they're porting  
7 numbers from, there is a new cost that goes far beyond  
8 transporting within the exchange.

9 Q And who should bear that cost?

10 MR. WIECZOREK: Same objection.

11 MR. SMITH: Overruled.

12 A I have an opinion about whose responsibility it does  
13 not fall on.

14 Q Okay. I'll ask the question that way. What's your  
15 opinion as to whose responsibility it is not to bear  
16 the transport costs?

17 A It's my position that the wireline local exchange  
18 carrier bears no responsibility for transporting  
19 traffic beyond its exchange boundaries.

20 Q Okay. Thank you. I believe it was Ms. Wiest that  
21 asked you about advantages of utilizing either Qwest or  
22 SDN as a transport and what were some of those  
23 advantages. And when you said -- you maybe listed a  
24 couple of potential advantages, but when you said that  
25 one of those advantages of using Qwest or SDN for

1 transport might be a lower cost, I take it that lower  
2 cost as you were responding to that question does not  
3 address the shift in costs that would occur from  
4 today's architecture to the ILEC with Western  
5 Wireless's transport proposal?

6 A Regardless of the mechanism that's used to deliver this  
7 traffic from the wireline exchange carrier to a  
8 wireless switch, I maintain that it is not the  
9 responsibility of the wireline carrier to pay that  
10 cost.

11 Q I want to draw your attention to a couple of the -- a  
12 couple of your exhibits with regard to some of the  
13 companies, and I think that this was included in some  
14 comments that you were going to make with regard to  
15 your individual company exhibits.

16 First of all, I would draw your attention to  
17 the City of Faith. And I think that you had a comment  
18 to make with regard to the switching costs in the  
19 exhibits for Faith?

20 A I left those notes in my jacket. It's right here.

21 Q Okay.

22 (Witness retrieves notes)

23 A The City of Faith regarding switch upgrade costs, on  
24 the Exhibit 1 filed with our petition Faith had  
25 reported to us an estimated switch upgrade cost of

1 \$47,802. When we later received the quotation that  
2 Faith had received from a consulting firm, we  
3 discovered that that cost was for providing both LNP  
4 and CALEA capability.

5 And so for our Exhibit 2 filed with my direct  
6 testimony we utilized the methodology that I have  
7 earlier described for Exhibit 2, switch upgrade costs,  
8 which was we used the standard Mytel pricing policy for  
9 LNP capability, and that amount was \$14,668.

10 Q So you actually reduced your switch upgrade costs from  
11 Exhibit 1 to Exhibit 2 to exclude anything other than  
12 the LNP upgrade necessary.

13 A That's true.

14 Q Then I would direct your attention to the comparison  
15 exhibit -- whatever it's called. And I believe it's  
16 Tri-County. It is R-1-TB. Are you with me?

17 A Yes.

18 Q On the switch upgrade costs for Tri-County you have  
19 included \$10,640 to the actual switch upgrade costs.  
20 And I would ask you today would that additional  
21 expenditure allow Tri-County to implement LNP?

22 A No. Tri-County has some ancient DMS-10s and to  
23 actually provide LNP they would have to replace both of  
24 their switches. Their owner told me over the phone --

25 Q I think that might be hearsay so I'll stop you before



1 you go there.  
 2 A Okay.  
 3 Q Would the bottom line then be for Tri-County to  
 4 implement LNP the actual costs would be greater than  
 5 what you have set forth in this exhibit?  
 6 A Definitely. Definitely, yes.  
 7 Q With regard to a question that Mr. Koenecke asked you,  
 8 and I see he's now been replaced, I think I understood  
 9 you to answer this, that all the costs identified in  
 10 your Exhibits 2 with the exception of transport would  
 11 apply to wireline to wireline, and it's my  
 12 understanding that you just did not prepare a separate  
 13 exhibit for those. Is that correct?  
 14 A Yes.  
 15 MS. POLLMAN ROGERS: That's all.  
 16 MR. COIT: No questions.  
 17 MR. WIECZOREK: A couple.  
 18 RECROSS-EXAMINATION  
 19 BY MR. WIECZOREK:  
 20 Q If Tri-County would upgrade their switches, that would  
 21 reduce costs on their maintenance of their current  
 22 switches; right?  
 23 A Their current switches would be retired from service.  
 24 Q Right. But I'm assuming these ancient switches have a  
 25 higher maintenance cost and more issues related with

1 them than a new switch would.  
 2 A Part of the reason they're so ancient is there has been  
 3 hardly any maintenance performed on them.  
 4 Q And due. Faith upgrade, that was a switch upgrade that  
 5 was unnecessary for LNP; correct?  
 6 A The original Exhibit 1 included both LNP and a separate  
 7 function.  
 8 Q Okay. When we talked about how many points of  
 9 interconnect you would need we were talking about Wall  
 10 before and Ms. Rogers has taken to you the question  
 11 that you submitted to these managers, you would agree  
 12 with me that you have no idea whether the identified  
 13 wireless carriers providing service provided to you by  
 14 the managers, that you have no idea whether they are  
 15 selling their service and using somebody else's  
 16 infrastructure to route the calls, meaning another  
 17 wireless company to route the calls?  
 18 A The assumption I made was that in response to the  
 19 instructions that I've just read using the phrases  
 20 wireless carriers operating in your area and wireless  
 21 carriers providing service in the area served by your  
 22 company was that the responses that we would receive  
 23 would reflect wireless carriers with towers and radio  
 24 transmission.  
 25 Q But you didn't ask it that way, did you?

1 A That's right.  
 2 Q And, in fact, when we talked about Wall before you  
 3 talked about AT&T wireless being one of the companies?  
 4 A That was reported to us.  
 5 Q And Qwest?  
 6 A Correct.  
 7 Q And I believe there was five companies, Verizon and  
 8 Cell One being the other, and which was the fifth? Do  
 9 you recall?  
 10 A For?  
 11 Q Wall.  
 12 A The company name is Golden West?  
 13 Q It's Golden West, yes. It's the big Golden West  
 14 West River.  
 15 A Golden West Vivian Kadoka?  
 16 Q Right.  
 17 A Viaero, Western, Verizon, Qwest, and AT&T.  
 18 Q Did you go to the FCC and see if any of those people  
 19 had actually a license to broadcast in that area?  
 20 A No.  
 21 Q You didn't do that for any of these cell companies, you  
 22 just took the names of anybody they said was providing  
 23 service and assumed they needed points of interconnect;  
 24 correct?  
 25 A That's true.

1 Q You think the independent rural LECs shouldn't have to  
 2 pay for transport; correct?  
 3 A Correct.  
 4 Q So is it your testimony here that a cellular company  
 5 should have to pay the transport under your plan?  
 6 A It's my position that a local interexchange -- I'm  
 7 sorry. A local wireline exchange carrier bears no  
 8 responsibility for paying the cost of transporting  
 9 traffic beyond its exchange boundaries.  
 10 Q All right. But my question is -- well, let me ask it  
 11 this way: If the cellular companies are going to have  
 12 to -- under your position to get LNP they're going to  
 13 have to pay for their own transport, shouldn't they get  
 14 to pick how to transport as opposed to using your most  
 15 expensive transport mechanism?  
 16 A If it can route traffic correctly, then I would think  
 17 it would be an appropriate mechanism for carrying that  
 18 traffic.  
 19 Q All right.  
 20 MR. WIECZOREK: Thank you. Nothing  
 21 further.  
 22 MR. SMITH: Mr. Koenecke -- or  
 23 Mr. Gerdes.  
 24 MR. GERDES: Mr. Koenecke has no  
 25 questions.

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1 MR. SMITH: Ms. Wiest.  
 2 RECROSS-EXAMINATION  
 3 BY MS. AILTS WIEST:  
 4 Q For Tri-County you stated they needed a new switch.  
 5 When did you find that out?  
 6 A I don't have that information in front of me, and my  
 7 recollection is that I learned that about six weeks ago  
 8 approximately.  
 9 Q Then why wasn't it included in --  
 10 A Because I thought it was irrelevant to the LNP  
 11 implementation cost. I wanted to provide it here so  
 12 the Commission would have an understanding that in at  
 13 least one case the cost of implementing LNP can go far  
 14 beyond the costs of providing LNP as defined by the  
 15 FCC's regulations in terms of cost recovery through the  
 16 end-user charge.  
 17 It's not our position that this huge switch  
 18 replacement cost is eligible to be included in an LNP  
 19 end-user charge, but if Tri-County does not receive a  
 20 suspension of the LNP requirements and Tri-County  
 21 proceeds to implement LNP, they have to replace their  
 22 switches, and it will cost them a lot of money to do  
 23 that.  
 24 MS. AILTS WIEST: Thank you. That's  
 25 all I have.

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1 MR. SMITH: Commissioners, do you  
 2 have anything? Commissioner Hanson.  
 3 VICE CHAIR HANSON: I wasn't going  
 4 to ask one, but I am intrigued by Ms. Rogers asking  
 5 you to make some policy statements and decisions  
 6 here and the subsequent questions by Mr. Wieczorek.  
 7 You've testified that an ILEC should not bear  
 8 responsibility for transport of wireless calls  
 9 outside of their service area.  
 10 THE WITNESS: I think my testimony  
 11 was that my position is that a wireline local  
 12 exchange carrier bears no responsibility for the  
 13 cost of transporting any kind of traffic beyond its  
 14 exchange boundaries, whether that be toll or local,  
 15 wireline to wireline or wireless.  
 16 VICE CHAIR HANSON: Subsequently, I  
 17 didn't quite catch Mr. Wieczorek's question of how  
 18 it was phrased but it was something along the line  
 19 of whether or not the company then that is going to  
 20 bear the costs should not have the right to choose  
 21 what type of porting ability there is.  
 22 Is that your testimony?  
 23 THE WITNESS: I think his question  
 24 was if the wireless companies have to pay for  
 25 transport, shouldn't the wireless companies be able

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1 to select the mechanism deployed for --  
 2 VICE CHAIR HANSON: Uh-huh. And  
 3 would you agree with that? Wouldn't it follow?  
 4 THE WITNESS: I can't see anything  
 5 wrong with that line of reasoning.  
 6 VICE CHAIR HANSON: So if the  
 7 wireless company were to say --  
 8 THE WITNESS: At this point --  
 9 VICE CHAIR HANSON: -- we want to --  
 10 I'm not sure how much of the testimony you were  
 11 here for but you did refer to the peacock and the  
 12 flip side of the peacock is the wireless proposal.  
 13 So it sounds to me like you're testifying that as  
 14 long as the wireless companies are willing to pay  
 15 for their proposal that that should be okay.  
 16 THE WITNESS: I guess if they're  
 17 paying the freight, they can pick the railroad.  
 18 VICE CHAIR HANSON: Okay. Thank  
 19 you.  
 20 MR. SMITH: With respect to the  
 21 upgrading of Tri-County, I mean, is that a --  
 22 that's a scheduling issue; right? Because they're  
 23 not going to be able to keep operating with that  
 24 equipment forever, or are they?  
 25 THE WITNESS: My understanding is

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1 that they believe that they are capable of  
 2 providing adequate service to their customers today  
 3 with the equipment that they have, and when I  
 4 inquired about information related to development  
 5 of LNP implementation costs, the person I was  
 6 receiving the information from indicated to me that  
 7 the -- I think it's called the generic, the  
 8 revision level version of the switch that they  
 9 currently have in two locations, both Emery and  
 10 Clayton is so old that this LNP software cannot be  
 11 installed on it.  
 12 MR. SMITH: My point was are those  
 13 switches, though, those old switches -- I mean,  
 14 there's going to come a time when those in the  
 15 ordinary course would be replaced, would there not,  
 16 or are they going to -- at some point don't you get  
 17 to where you can't even find replacement parts?  
 18 And normally businesses eventually upgrade their  
 19 equipment due to depreciation.  
 20 If you don't know the answer to that -- but it  
 21 just -- and I think my point is looking at it this  
 22 way, that if, for example, the Commission might  
 23 choose to say in a situation like Tri-County that  
 24 if those switches were in the ordinary course going  
 25 to be scheduled for replacement in three years,

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1 that it might make sense to give them some slack on  
 2 implementing number portability until that switch  
 3 replacement was to happen.  
 4 THE WITNESS: I do not know what the  
 5 switch replacement plans are for Tri-County.  
 6 MR. SMITH: Okay. Thank you.  
 7 Anything further?  
 8 MS. POLLMAN ROGERS: That's all.  
 9 Thanks.  
 10 MR. SMITH: You're excused. Thank  
 11 you. At this point do you have any further  
 12 witnesses today, Petitioners, at this time in your  
 13 direct case?  
 14 MS. POLLMAN ROGERS: I don't have  
 15 any further witnesses. I would ask that since  
 16 there has been some testimony on exhibits with  
 17 regard to the Minnesota case, I would ask the  
 18 Commission to take judicial notice of the separate  
 19 suspension orders received by the two parties that  
 20 are -- or two companies that are parties to these  
 21 proceedings and also of the letter that withdraws  
 22 those two companies from the MIC Docket. And that  
 23 would be for Alliance and Sioux Valley -- or Hills  
 24 and Sioux Valley.  
 25 MR. SMITH: Is there an objection?

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1 MR. WIECZOREK: Well, I haven't seen  
 2 them, but if they're from the file, I don't have an  
 3 objection. I guess I'm just confused because I  
 4 thought I asked Sioux Valley whether they were a  
 5 member of MIC, and I thought they said no. That  
 6 must be my --  
 7 CHAIRMAN SAHR: Just a housekeeping  
 8 question on that. Are the letters part of the  
 9 record too, or do we need to do something different  
 10 with those? I mean, if we take judicial notice of  
 11 something that's in the record, we're okay on that.  
 12 MS. POLLMAN ROGERS: In the record  
 13 in Minnesota.  
 14 CHAIRMAN SAHR: Are the letters  
 15 actually part of the record?  
 16 MS. POLLMAN ROGERS: Yes. And  
 17 actually I can provide you with copies of those.  
 18 Over the weekend we can look at them.  
 19 MR. SMITH: Why don't we deal with  
 20 that on Tuesday. My inclination is if they're  
 21 orders of the Minnesota Commission, I would be  
 22 inclined to notice them as indisputable evidence of  
 23 what happened.  
 24 CHAIRMAN SAHR: That would be my  
 25 inclination. I was just worried about getting the

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1 paper copied to the Commission and making sure we  
 2 have it available. If there was letters just sent  
 3 in that aren't part of the record and you want it  
 4 part of this proceeding, you'll have to get those  
 5 in.  
 6 Although I can't imagine anything that's  
 7 hopefully going to have an objection. It's  
 8 indicating they're pulled out of the proceeding;  
 9 right?  
 10 MS. POLLMAN ROGERS: Yes. They've  
 11 withdrawn.  
 12 CHAIRMAN SAHR: I think there is  
 13 significance to the letters.  
 14 MR. SMITH: Absolutely.  
 15 MR. WIECZOREK: Could I ask what the  
 16 date of the letters are?  
 17 MS. POLLMAN ROGERS: I think it was  
 18 the first part of the week when you first brought  
 19 forward that action. They did not know they were  
 20 still part --  
 21 MR. DICKENS: June 23.  
 22 MR. WIECZOREK: Two days after this  
 23 proceeding started?  
 24 MS. POLLMAN ROGERS: Yes. They did  
 25 not know they were still in. I think that's what

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1 they testified to.  
 2 MR. DICKENS: I think you may have  
 3 brought it to their attention, Tal.  
 4 MS. POLLMAN ROGERS: The orders are  
 5 dated May 21.  
 6 MR. WIECZOREK: I definitely know I  
 7 brought it to Mr. Heiberger's attention.  
 8 MS. POLLMAN ROGERS: Heard it  
 9 through the grapevine. I just want to -- before we  
 10 close out here, I wanted to let everyone know I'll  
 11 bring copies on Tuesday.  
 12 MR. WIECZOREK: If those letters  
 13 just went out on the 23rd, I doubt they're actually  
 14 part of the record or been entered in the record in  
 15 Minnesota. I guess I'd like to look at them and  
 16 get a confirmation they've been entered into the  
 17 record in Minnesota.  
 18 MR. SMITH: Are you done then,  
 19 Petitioners, with your direct case for today?  
 20 MS. POLLMAN ROGERS: Yes. For today  
 21 we are done.  
 22 MR. SMITH: Mr. Wieczorek.  
 23 MR. WIECZOREK: I call Mr. Williams  
 24 back to the stand.  
 25 MS. POLLMAN ROGERS: I just want the

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1 record to reflect if we do run into a time crunch,  
 2 I believe Mr. Williams will be here next week.  
 3 Even though Mr. Bullock will not be, we can carry  
 4 this over.  
 5 (Discussion off the record)  
 6 (Exhibit WWC 15 is marked for identification)  
 7 DIRECT EXAMINATION  
 8 BY MR. WIECZOREK:  
 9 Q Mr. Williams, your prefiled testimony has already been  
 10 entered into the evidence as Exhibit 1, and pursuant to  
 11 the ruling of the Commission it applies to all of the  
 12 proceedings here. Though we've now had marked Western  
 13 Wireless Exhibit No. 15. Is that in front of you?  
 14 A Yes.  
 15 Q And is it my understanding that this is similar to what  
 16 was previously marked as Western Wireless Exhibit 9,  
 17 being a page or a company-by-company essentially  
 18 diagram showing how the numbers have changed and how  
 19 some of the different revisions have occurred over the  
 20 filings of the testimony here?  
 21 A Yes. It's similar intent using the format that was  
 22 originally put forth by the Petitioners, which is  
 23 slightly different than the format we saw by the prior  
 24 Petitioner group.  
 25 Q And these companies appear on your original testimony

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1 as attached to Western Wireless Exhibit 1, Exhibit 5A  
 2 to that testimony; correct?  
 3 A Correct.  
 4 Q Is it your desire to modify that testimony by also  
 5 submitting Exhibit No. 15?  
 6 A Yes.  
 7 Q Okay.  
 8 MR. WIECZOREK: Since his testimony  
 9 is already in, Commission, I would make him  
 10 available for cross-examination.  
 11 MR. SMITH: Are you going to offer  
 12 this?  
 13 MR. WIECZOREK: I would offer 15.  
 14 Thank you.  
 15 MS. POLLMAN ROGERS: I'm not going  
 16 to object.  
 17 MR. SMITH: Western Wireless 15 is  
 18 received.  
 19 Who's going here? Ms. Rogers or --  
 20 MS. POLLMAN ROGERS: I'll start,  
 21 yes.  
 22 CROSS-EXAMINATION  
 23 BY MS. POLLMAN ROGERS:  
 24 Q So just for clarification, you had what is called  
 25 Exhibit Williams Direct 5A that was attached to your

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1 testimony.  
 2 A Correct.  
 3 Q So, for example, for Alliance we're basically taking  
 4 the figures that you have there, and that's under --  
 5 Western original estimates?  
 6 A Correct.  
 7 Q And then you're revising them from there?  
 8 A Correct. There are two revision columns. One reflects  
 9 the port projections made by the Petitioners, and the  
 10 other reflects the port projections made by Western  
 11 Wireless.  
 12 Q Can you explain the difference between the Exhibit 9  
 13 and the Exhibit 15?  
 14 A Well, the fundamental difference is this. The  
 15 left-hand column description of the costs and the way  
 16 those costs are organized is different for this group  
 17 of Petitioners than it was for Mr. DeWitte's companies.  
 18 And that's the primary difference in structure.  
 19 The other difference is that this group of  
 20 Petitioners had one less revision cycle than  
 21 Mr. DeWitte's group.  
 22 Q So this is basically similar to Exhibit 9, but it's  
 23 applied to the other companies that we were dealing  
 24 with today?  
 25 A Correct.

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1 MR. WIECZOREK: As a way of  
 2 clarification, I should mention that these apply --  
 3 Exhibit 15 contains the companies that Mr. Bullock  
 4 has testified to. Exhibit 9 would be the ones  
 5 Mr. DeWitte testified to.  
 6 And, I'm sorry, one further clarification.  
 7 Mr. Williams, if you'll notice there was some  
 8 handwritten revisions on the chart in front of you  
 9 and he was sitting here this morning, caught the  
 10 mistake, and wrote the revisions in so we wouldn't  
 11 have to modify the record later.  
 12 MR. SMITH: Thank you.  
 13 MS. POLLMAN ROGERS: Excuse me just  
 14 a minute.  
 15 (Pause)  
 16 MS. POLLMAN ROGERS: I think we're  
 17 as unconfused as we can be.  
 18 Q In your original Exhibit 5A under Alliance or even  
 19 under this exhibit under your original estimates you  
 20 had zero or no figures filled in for any of the LNP  
 21 monthly recurring costs including transport; is that  
 22 correct?  
 23 A That's correct. Because at that time the information I  
 24 had from the Petitioners was they were not forecasting  
 25 any ports. So those variable costs then would be zero.

1 **Q** So then when you revised it how did you determine or  
 2 estimate the number of ports?  
 3 **A** Well, the 180 number that corresponds to the 180 ports  
 4 per year number in Mr. Bullock's testimony -- or  
 5 revised exhibit.  
 6 **Q** And so then on your final column on Exhibit 15, which  
 7 is Western revised estimates, you have 293.  
 8 **A** And that is Western Wireless's projection for how many  
 9 ports would occur in a year.  
 10 **Q** And that would basically be consistent with Exhibit B  
 11 attached to your responses to Interrogatories?  
 12 **A** Consistent with but not identical to. Exhibit B  
 13 represents only the ports to Western Wireless, and this  
 14 number reflects all intermodal reports.  
 15 **Q** All right. So your estimated number here is  
 16 approximately 45 percent of the total?  
 17 **A** The 293 represents 100 percent of what we're  
 18 forecasting for intramodal ports in a year, whether  
 19 it's Western Wireless or Verizon Wireless or some other  
 20 carrier.  
 21 **Q** And the 660 ports projected for the next five years on  
 22 this exhibit represents what?  
 23 **A** Just Western's share.  
 24 **Q** Thank you. I just wanted those clarified. Another  
 25 thing I note with regard to Exhibit 15 is you'll note

1 that on your switch upgrade costs, on that column I've  
 2 noticed that in your revised estimate you have reduced  
 3 that significantly from the first Exhibit 1, the  
 4 original of Petitioner's estimates; is that correct?  
 5 **A** That's correct.  
 6 **Q** And did you contact a vendor, or is that how you came  
 7 up with that information?  
 8 **A** Well, here's the approach -- this is, I believe, for  
 9 Mr. Bullock's clients. This is the only switch  
 10 estimate cost I made a change to, and I can explain  
 11 that if you wish.  
 12 **Q** I would like you to explain that. I think Mr. Bullock  
 13 testified that he had contacted the vendors, and that's  
 14 why I'm wondering the basis for your reduction of that  
 15 cost.  
 16 **A** I used Mr. Bullock's underlying cost information, but  
 17 for Alliance there was a significant difference between  
 18 the number of ports that LNP software was purchased for  
 19 for an upgrade -- or estimated for for an upgrade and  
 20 the actual number of ports in service. There were --  
 21 using Mr. Bullock's number, there was LNP software  
 22 forecasted for 20,012 ports, and there are only 9,842  
 23 lines in service.  
 24 I allowed for a 15 percent growth over five  
 25 years -- that's over and above any line loss -- to

1 11,318 ports for LNP investment. And I took that  
 2 number times the \$4 per port, which is the Nortel  
 3 figure, came up with a number then that I used as an  
 4 appropriate number, and the net difference is reflected  
 5 here.  
 6 **Q** And Mr. Bullock off the record reminded me that that  
 7 will be one of his corrections too that he will be  
 8 making to this exhibit. I think he maybe alluded to  
 9 that, and that had slipped my mind.  
 10 Overall with the addition of transport costs  
 11 based on a project number of ports your bottom line  
 12 costs for Alliance have increased from the time that  
 13 you submitted Exhibit 5B; is that correct?  
 14 **A** That's correct. Because 5B was based on the zero port  
 15 estimate of the Petitioners, and this includes the 293  
 16 ports per year.  
 17 **Q** Now we've noticed that -- or I notice in comparing the  
 18 figures and this on these other sheets attached to  
 19 Exhibit B that -- Exhibit 15, excuse me, that your  
 20 transport costs are less than those contained in  
 21 Mr. Bullock's cost exhibit; is that correct?  
 22 **A** That's correct. And the primary reason for that is --  
 23 **Q** I can ask you the question. Thank you. Are you  
 24 assuming the use of the common trunk or your  
 25 transport -- common trunking group in accordance with

1 the transport plan that you've submitted to the  
 2 Commission? Would that be correct?  
 3 **A** That's correct. We're using the same transport plan  
 4 proposed for all companies.  
 5 **Q** My question to you is did you personally contact Qwest  
 6 to determine the feasibility or the willingness of  
 7 Qwest to enter into this plan?  
 8 **A** I did not. My --  
 9 **Q** Thank you. So you're telling me that you put this  
 10 proposal before the Commission as an alternative for  
 11 transport but that you did not contact Qwest prior to  
 12 doing so. Is that a correct statement?  
 13 **A** That is a correct statement.  
 14 **Q** Now I want to go to the next page, which is Armour, and  
 15 this would be combined Armour, Bridgewater-Canistota,  
 16 Union. That's for all three companies; is that  
 17 correct?  
 18 **A** Yes.  
 19 **Q** Other than I think you've estimated a slightly higher  
 20 number of ports, but your bottom line cost that you  
 21 have calculated, again, excluding transport, is not  
 22 really significantly different from that in  
 23 Mr. Bullock's estimation, is it? It's pretty close,  
 24 isn't it?  
 25 **A** It's about a 30 percent difference.

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1 **Q** I mean, both are over a dollar; is that correct?

2 **A** Both are over a dollar.

3 **Q** Okay. We've talked a little bit about Faith, and it is

4 my understanding that you basically do not dispute that

5 Faith is one of the companies that would have

6 significant costs and perhaps should be considered by

7 the Commission for suspension even under your cost

8 scenarios.

9 Is that a correct statement of your

10 testimony?

11 **A** I think they've distinguished themselves from most of

12 the other Petitioners.

13 **Q** Kind of stands out above the others, doesn't it? In

14 the next cost exhibit, which is Golden West, Vivian,

15 and Kadoka, Mr. Bullock's original estimate for switch

16 upgrade costs was \$126,456, and then he revised that

17 for 145,757.

18 And on this page and, in fact, most of them

19 did you then just select whichever one was cheaper to

20 put into your estimate?

21 **A** No. I selected the one I had support for, which was

22 the first estimate. I didn't have --

23 **Q** And, in fact, in most cases you chose the one that

24 corresponded with Mr. Bullock's first exhibit; is that

25 correct?

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1 **A** That is correct.

2 **Q** Unless it was cheaper, and then you picked that one

3 from the second exhibit; is that correct?

4 **A** In no case did it appear to be cheaper.

5 **Q** Okay. And then again there is not a significant

6 difference in your figures on total nonrecurring costs

7 excluding transport from Mr. Bullock's -- I'm looking

8 at the top portion of that exhibit -- is there? Your

9 figures are pretty close?

10 **A** For Golden West?

11 **Q** Yes.

12 **A** Again, about a 20 percent, 25 percent difference.

13 **Q** One of the differences would be your other internal

14 costs, and is it my understanding you just used a flat

15 fee throughout all of these companies; is that correct?

16 **A** I did. I picked 15,000 as more or less a nonarithmetic

17 mean to use for these.

18 **Q** I don't believe I had any particular questions with

19 regard to Tri-County other than you did hear

20 Mr. Bullock's testimony that it would certainly take a

21 substantial larger sum of money to implement LNP in

22 that exchange; is that correct? And you have no reason

23 to dispute that, do you?

24 **A** I'm not at all familiar with Tri-County's switching

25 situation.

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1 **Q** So you have no reason to dispute that?

2 **A** Correct.

3 **Q** Okay. So in general, and again I'm looking in

4 particular at Valley's, the cost per line per month

5 under your estimate including transport is very, very

6 similar to that computed by Mr. Bullock.

7 **A** Really the only difference there is, you know, we're

8 estimating about twice as many ports, but the estimates

9 are very close.

10 **Q** And the other difference would be your other internal

11 costs. You didn't base that on a company-specific

12 basis; is that correct?

13 **A** I based it on what I thought was achievable for this

14 company.

15 **Q** Which was not on company-specific figures?

16 **A** No. It's probably on the high side for this company.

17 **Q** You have no way of knowing that, though, do you?

18 **A** I do. I have been through processes --

19 **Q** Have you been to Valley?

20 **MR. WIECZOREK:** I'd object. The

21 witness was answering her question. She should let

22 him answer before interrupting.

23 **A** I have been very involved with the processes of

24 establishing LNP, including all involvement with each

25 and every underlying activity that represents the other

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1 internal cost item, and I am very familiar with what

2 costs would be appropriate in that line item.

3 **Q** You are not personally familiar with the internal

4 operations of any of these companies, are you,

5 Mr. Williams?

6 **A** No more than has been provided in discovery.

7 **Q** So that would be a no.

8 **A** That would be --

9 **Q** No more than provided --

10 **A** No more than provided in discovery.

11 **Q** The profile or the information that's been provided to

12 you through the discovery.

13 **A** Correct.

14 **MS. POLLMAN ROGERS:** I believe

15 that's all the questions I have. Thank you.

16 **MR. COIT:** No questions.

17 **MR. SMITH:** Mr. Gerdes.

18 **MR. GERDES:** No questions.

19 **MS. AILTS WIEST:** No questions.

20 **MR. SMITH:** Commissioners.

21 **COMMISSIONER BURG:** I have one. I

22 was a little intrigued by something that Mr. Law

23 said. He proposed the cost for LNP be calculated

24 on per point of number basis.

25 What would that figure be for any single

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1 exchange you might want to pick, given Western  
2 Wireless ports per year figure using the number of  
3 ports you expected there would be?

4 THE WITNESS: I have no idea. I  
5 mean, there's no rationale for -- it's been decreed  
6 on how those would be paid for.

7 COMMISSIONER BURG: But it's also  
8 been decreed that there's an --

9 THE WITNESS: Suspension  
10 opportunity.

11 COMMISSIONER BURG: Suspension  
12 opportunity. And as you can tell from my line of  
13 questioning, I'm very concerned about the  
14 cost/benefit ratio.

15 And my last question then, would people port  
16 if they paid the cost of porting? Would it still  
17 be a benefit to them? Because your company's made  
18 the argument all along this is a great benefit to  
19 get LNP for the people.

20 THE WITNESS: One way to look at it  
21 is I don't think people would use 911 services if  
22 the users had to pay individually for the cost of  
23 911.

24 COMMISSIONER BURG: I don't agree  
25 with that at all. We've been through that a lot.

1 Wireless be allowed LNP if they pay for it?

2 THE WITNESS: Well, if I can  
3 describe a scenario that may fit that statement, we  
4 would have no intention of paying for the upgrade  
5 of any carrier's switch to meet LNP obligations.

6 There is -- right now, as has been explained,  
7 an open question in front of the FCC as to the  
8 obligation for paying for transport associated with  
9 the porting of -- transport to ported numbers. The  
10 FCC has specifically said that that obligation is  
11 in no way a justification for suspension or delay  
12 in the implementation of LNP, but they have said it  
13 is an unanswered question.

14 You know, Western would entertain on an  
15 interim basis until the FCC made a final decision  
16 on whose obligation it is to pay for that transport  
17 to pick up transport under a Qwest tandem-based  
18 routing proposal identical to the one we've  
19 proposed, which is identical also to the one  
20 proposed in Minnesota.

21 VICE CHAIR HANSON: Thank you.

22 MR. SMITH: Oh, Mr. Wiczorek. I'm  
23 sorry.

24 MR. WIECZOREK: How could you  
25 forget? I just have a couple redirect.

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1 That's a very popular service I think most people  
2 would be glad to pay for. They do pay for it.

3 THE WITNESS: They do, but the  
4 cost-causer doesn't pay for it.

5 COMMISSIONER BURG: Well, when you  
6 come to safety I'm not sure who the cost-causer is.  
7 I don't think you have to wait until you need it to  
8 be -- just like the fire department.

9 THE WITNESS: I would agree with  
10 that.

11 COMMISSIONER BURG: I think there's  
12 a -- I think we're talking about apples and oranges  
13 there. That's the only question I have. I'm very  
14 concerned the amount of cost that this will cost  
15 for the benefits that we see and especially if we  
16 don't reach those numbers of porting as has been  
17 the historical record in the other areas -- in the  
18 MSAs that already have porting.

19 That's all I have.

20 MR. SMITH: Commissioner Sahr, any  
21 questions? Anything further?

22 CHAIRMAN SAHR: No. Commissioner  
23 Hanson.

24 MR. SMITH: Oh, excuse me.

25 VICE CHAIR HANSON: Should Western

# REDIRECT EXAMINATION

2 BY MR. WIECZOREK:

3 Q Ms. Rogers asked you something about contacts with  
4 Qwest, and it looked like you had some information to  
5 provide there. Have you had any experience with  
6 Qwest's willingness to enter into these kind of  
7 relationships?

8 A Well, I'll tell you first where the numbers came from,  
9 came from our own engineering experience in converting  
10 one-way to two-way trunks with Qwest and then, yes, I  
11 am familiar that Qwest has stated that they are eager  
12 to provide this service.

13 Q In the Minnesota proceeding?

14 A In the Minnesota.

15 MR. WIECZOREK: That's all I have.

16 MR. COIT: Could I ask one question?

17 MR. SMITH: Yes.

18 MR. COIT: Recross question.

# RECROSS-EXAMINATION

20 BY MR. COIT:

21 Q Mr. Williams, we've talked a lot about transport the  
22 last four or five days. Are you familiar with any  
23 transiting agreements or tariffs that have provisions  
24 requiring that when traffic volumes exceed the level  
25 where a DS-1 facility would be justified that the -- a

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1 DS-1 facility should be purchased rather than using the  
 2 common transport facilities?  
 3 **A** Yes. Those agreements are usually triggered by a  
 4 traffic level between two switches, to CLLI codes, that  
 5 exceeds the DS-1s worth of capacity and different  
 6 agreements have different thresholds but six or eight  
 7 or 10 times in a 30-day period.  
 8 **Q** Okay. So are you aware of any Qwest agreements or  
 9 tariffs that include provisions like that?  
 10 **A** Not off the top of my head, but they very well may.  
 11 **Q** And a final question. If a company utilizes a common  
 12 transport facility into a local exchange area, is that  
 13 company actually establishing a point of interconnect  
 14 within that local exchange area for the purpose of  
 15 receiving local traffic?  
 16 **A** I guess I'm not sure the question. Could you repeat  
 17 it?  
 18 **Q** The question would be if a company uses a common  
 19 transport facility into another area to receive local  
 20 traffic, has that company actually established a point  
 21 of interconnect within that local company area?  
 22 **A** I would say not.  
 23 MR. COIT: Okay. Thank you. No  
 24 further questions.  
 25 CHAIRMAN SAHR: Could I ask Cheri if

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1 you could go back and read the last question from  
 2 Commissioner Hanson and the response.  
 3 (Reporter reads back requested portion of transcript)  
 4 MR. WIECZOREK: I believe I moved  
 5 15.  
 6 MR. SMITH: 15, I believe I have  
 7 that. I admitted it. We're in recess until 8:30  
 8 Tuesday morning, Tuesday the 29th.  
 9 (Proceedings are in recess)  
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1 MR. SMITH: The hearing in the LNP  
 2 suspension request cases is reconvened. It's  
 3 Tuesday morning, June 29, at approximately 8:30  
 4 a.m. which is the time and place for the hearing in  
 5 the following Dockets: TC04-025, Kennebec  
 6 Telephone Company; TC04-052, Midstate  
 7 Communications, Inc.; TC04-048, Beresford Municipal  
 8 Telephone Company; and TC04-053, Western Telephone  
 9 Company.  
 10 Petitioners, you may proceed.  
 11 MS. POLLMAN ROGERS: Thank you. In  
 12 Docket TC04-025, which is the petition of Kennebec  
 13 Telephone Company, Petitioners would call Rod Bowar  
 14 to the stand.  
 15 ROD BOWAR,  
 16 called as a witness, being first duly sworn in the  
 17 above cause, testified under oath as follows:  
 18 DIRECT EXAMINATION  
 19 BY MS. POLLMAN ROGERS:  
 20 **Q** Good morning, Rod. Would you please state your name  
 21 and address for the record.  
 22 **A** Rod Bowar, Kennebec, South Dakota 57544.  
 23 **Q** What is your occupation?  
 24 **A** I'm manager of Kennebec Telephone Company.  
 25 **Q** You have next to you there what have been marked as

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1 Kennebec Exhibits 1 and 2. Can you identify those?  
 2 **A** Yes. One is my direct prefiled testimony, and the  
 3 other is my rebuttal testimony.  
 4 **Q** And they were prepared by you or at your direction; is  
 5 that correct?  
 6 **A** Yes.  
 7 **Q** Do you have any additions or corrections to your  
 8 prefiled testimony?  
 9 **A** On the rebuttal I would like to change the address from  
 10 209 South Main to 220 South Main.  
 11 **Q** That would be on line 3 of page 1 of the rebuttal  
 12 testimony?  
 13 **A** Yes.  
 14 **Q** Any other additions or corrections?  
 15 **A** No.  
 16 **Q** If I asked you the questions contained in your prefiled  
 17 testimony, would your responses and answers be the  
 18 same?  
 19 **A** Yes, they would.  
 20 **Q** Would you briefly summarize your testimony.  
 21 MR. WIECZOREK: Before we get into  
 22 the summary, I do have an objection to the direct  
 23 testimony to the extent it refers to a survey and  
 24 their conclusions of the survey based on what  
 25 Sue Vanicek told them about the survey.



1 Sue Vanicek was hired as an independent  
2 consultant and supposedly to do this survey and  
3 then informed him of what she perceived the results  
4 to be and he's just parroting them back. They  
5 could have called Ms. Vanicek to go through the  
6 survey. It's hearsay. It's based on her opinion  
7 as to what the survey says. So to that extent, I  
8 would object to his direct testimony with the  
9 exception of page 5 which does not refer to the  
10 survey, but I object to all the other testimony.

11 The reason I'm raising my objection now is I  
12 don't want him to get into a summary of that survey  
13 before I register my objection.

14 MR. SMITH: Are there specific  
15 places in the direct testimony that you can  
16 identify as being objectionable?

17 MR. WIECZOREK: Yes. If you follow  
18 the testimony -- this is the direct testimony. He  
19 starts talking -- page 1 is general background but  
20 if you get into page 2 they talk about  
21 commissioning the survey from Telec Consulting  
22 Services to conduct a survey of the consumers and  
23 goes through and explains how it's done and talks  
24 about the reliability and directly talks about what  
25 Ms. Vanicek told him about the survey. And it's my

1 understanding then that he is simply -- on page 3  
2 parrots back what she has told him about the  
3 results of the survey.

4 And from the standpoint of just -- it's her  
5 opinions that he's giving here.

6 MS. POLLMAN ROGERS: Could I please  
7 ask a couple of questions of the witness to try to  
8 clarify this?

9 MR. SMITH: Right. And I guess the  
10 other question I would have is is the witness from  
11 Telec this morning able to address the issue of  
12 foundation for those? And, again --

13 MS. POLLMAN ROGERS: I believe  
14 Mr. Bowar -- I mean, if you would allow me to ask  
15 him, he has reviewed the survey results himself and  
16 is familiar with them himself. That in addition to  
17 the ordinary of course of business exception, I  
18 believe that there is sufficient foundation to  
19 overcome a hearsay objection.

20 MR. SMITH: Why don't you go ahead  
21 and ask him the questions.

22 Q (BY MS. POLLMAN ROGERS) Mr. Bowar, with regard to the  
23 survey that counsel was referring to, did you  
24 personally review the results of the survey?

25 A Yes, I did.

1 Q You read it yourself?

2 A Yes, I did.

3 Q And you are familiar yourself with the contents and the  
4 results of the survey?

5 A Yes, I am.

6 Q And you had this survey prepared in the ordinary course  
7 of your business as the manager of Kennebec Telephone  
8 Company?

9 A Yes, I did.

10 MS. POLLMAN ROGERS: Thank you.

11 MR. WIECZOREK: I would continue to  
12 raise my objection. It's clear from his testimony  
13 that he had it prepared for this hearing. I mean,  
14 if that's all you have to do is have a report  
15 prepared, he could sit here -- there's no reason to  
16 call the Telec people on cost. He could sit here  
17 and say here's the cost and here's the conclusions  
18 and we wouldn't be allowed the ability to  
19 cross-examine on cross. He's reviewed the surveys,  
20 and that's all it takes. He can come in here and  
21 do the same thing with the cost numbers.

22 MR. SMITH: Do you have an opinion?

23 MS. AILTS WIEST: We don't object at  
24 this point.

25 MR. SMITH: Is the Telec witness

1 able to address the survey and the foundation of  
2 the survey?

3 MS. POLLMAN ROGERS: I believe  
4 that -- I mean, I'm not sure that this Telec  
5 witness, the one that is here, in response to your  
6 question is very familiar with the survey. But  
7 again, Mr. Bowar is very familiar with it and has  
8 read it and reviewed it.

9 I would further point out that I believe there  
10 was a survey by NTCA introduced by Western Wireless  
11 earlier, and it would appear to me that the same --  
12 that that was allowed into evidence and this one  
13 should be as well, especially when Mr. Bowar has  
14 gone over it and read it himself.

15 MR. SMITH: We're going to go into  
16 executive session to discuss the Commissioners'  
17 views on this.

18 (A short recess is taken at which time the  
19 Commission meets in executive session)

20 MR. SMITH: We have come out of  
21 executive session. I think it's the wishes of the  
22 Commission that the testimony be allowed under sort  
23 of the similar liberal foundation we afforded  
24 Western Wireless's survey for which there was  
25 precious little foundation.

1 And I think the bottom line expressed by the  
2 Commissioners is that we're capable of giving the  
3 testimony the weight it deserves, given the paucity  
4 of foundational evidence. And with that,  
5 Ms. Rogers, please proceed.

6 MR. WIECZOREK: For the purposes of  
7 the record can I have a standing objection for any  
8 references to the survey?

9 MR. SMITH: You may.

10 MR. WIECZOREK: Thank you.

11 **Q** (BY MS. POLLMAN ROGERS) Mr. Bowar, would you briefly  
12 summarize your prefiled testimony.

13 **A** In my prefiled testimony I am explaining how LNP would  
14 impact my customers. We have conducted a survey and  
15 the results overwhelmingly indicate that a majority of  
16 my customers do not want to pay for LNP at any price.  
17 I also provided demographic information as to the age,  
18 which is older than average in the nation, and income,  
19 which is also lower than average in the nation. It  
20 would make any older customers on fixed incomes pay for  
21 a service that they will not use and are not  
22 requesting. Bottom line, LNP implementation would have  
23 an extreme adverse impact with little or no benefit.

24 **Q** Thank you.

25 MS. POLLMAN ROGERS: I would at this

1 easy --

2 MR. WIECZOREK: With my apologies to  
3 the Commission, I only have one copy in my  
4 discovery. It was part of their discovery  
5 responses, but for appropriate referencing purposes  
6 I think I'm going to mark it so I can refer to it  
7 as an exhibit number. It's a letter to Mr. Bowar  
8 from Oak Hill Consulting, Inc. on switch  
9 upgrade/LNP costs. And I believe it would be  
10 Western Wireless 16.

11 (Exhibit WWC 16 is marked for identification)

12 MR. WIECZOREK: Go ahead and review  
13 the exhibit.

14 **Q** Can you identify what has been marked as Western  
15 Wireless Exhibit No. 16 for the Commission, please.

16 **A** Yes. It's from Oak Hills Consulting. It's a quote on  
17 upgrading our office.

18 **Q** Now this quote is not limited to simply LNP software  
19 upgrades; correct?

20 **A** I can't answer that.

21 **Q** Well, the cost to upgrade just your host office is  
22 \$31,400 of this bid; correct?

23 **A** Yes.

24 **Q** And down on the -- there's also a line that talks about  
25 LNP, 976 lines; correct?

1 time offer Kennebec Exhibits 1 and 2.

2 MR. WIECZOREK: No objection,  
3 subject to the standing objection on the survey.

4 MR. SMITH: So noted.

5 MR. WIECZOREK: No objection.

6 MR. COIT: No objection.

7 MS. POLLMAN ROGERS: I would tender  
8 the witness for cross.

9 MR. SMITH: Kennebec 1 and 2 are  
10 admitted. Please proceed. Mr. Coit, do you have  
11 questions?

12 MR. COIT: No questions.

13 MR. SMITH: Mr. Wieczorek, please  
14 proceed.

15 MR. WIECZOREK: Thank you, Mr. Smith  
16 Commissioners, counsel.

17 CROSS-EXAMINATION

18 BY MR. WIECZOREK:

19 **Q** Sir, as part of the Telec cost analysis you obtained a  
20 quote from Oak Hill Consulting, Inc. Do you recall  
21 that?

22 **A** Yes.

23 **Q** Do you recall the numbers on that?

24 **A** Not right off the top of my head.

25 **Q** I'll tell you what. It would probably just be as

1 **A** Yes.

2 **Q** What's the cost for the LNP, 976 lines?

3 **A** 3,904.

4 **Q** So is it your understanding that the majority of your  
5 costs for -- which you've included as switch upgrade  
6 costs is just -- is cost to upgrade your host office as  
7 opposed to make it LNP compliant?

8 **A** No.

9 **Q** It's not in your understanding?

10 **A** No.

11 **Q** Okay. So you understand that \$31,400 of this bid is to  
12 upgrade your host office; correct?

13 **A** Yes.

14 **Q** And that's because -- do you have an older host office?  
15 Well, let me ask it this way: That's a substantial  
16 portion of the number of LNP upgrade cost. Can you  
17 explain to the Commission what that cost is about?

18 **A** I cannot. Larry Butler is our engineer and he put this  
19 together. I cannot explain it.

20 **Q** Okay. All right. Is this a true and correct copy of  
21 the letter you received?

22 **A** Yes.

23 MR. WIECZOREK: All right. I'm  
24 going to move for the admission of 16, and I'll ask  
25 the Telec expert to explain it then.

1 MR. SMITH: Is there an objection?  
 2 MS. POLLMAN ROGERS: No.  
 3 MR. SMITH: Western Wireless Exhibit  
 4 16 is admitted.  
 5 Q You claim that there's no desire for LNP within your  
 6 system, but did you know that your cost expert has  
 7 projected 24 ports a year?  
 8 A I'm not sure of the number.  
 9 Q Okay. Do you know he's projected ports to occur?  
 10 A Yes.  
 11 Q And in your rebuttal testimony you talk about the  
 12 system that you're proposing to route traffic is based  
 13 on current routing arrangements; correct?  
 14 A Yes.  
 15 Q Did you look at any other routing arrangements besides  
 16 the one that you have proposed for your cost analysis  
 17 here?  
 18 A No.  
 19 Q Have you done any studies of what it would cost to  
 20 route traffic a different method?  
 21 A No.  
 22 Q You understand that federal law allows you to recover  
 23 the costs of LNP through an end-user charge; correct?  
 24 A I'm not sure whether it's federal law or whether it's  
 25 an FCC regulation.

1 Q But you understand that you've got that right.  
 2 A Yes.  
 3 Q And you also collect high-cost support and switch  
 4 support through USAC payments; correct?  
 5 A Yes.  
 6 Q And you would in calculating that support in the future  
 7 include your switch upgrade costs, wouldn't you?  
 8 A To the extent we're allowed.  
 9 Q Now do you understand that the proposal for how to  
 10 route this traffic envisions using DSL 1 lines to all  
 11 the CMRS carriers for routing ported numbers?  
 12 A I'd like to defer that to Dan Davis, Telec.  
 13 Q You didn't come up with that way of routing the  
 14 traffic, did you?  
 15 A No.  
 16 Q Okay. Did you leave that up to your consultant?  
 17 A Yes.  
 18 Q Your rebuttal testimony also talks about the plan  
 19 that's been proposed by Western Wireless to route the  
 20 traffic. Do you recall that?  
 21 A Yes.  
 22 Q And your concern that the way proposed by Western  
 23 Wireless will add costs to Kennebec. Do you recall  
 24 that?  
 25 A Not exactly, no.

1 Q Do you have your rebuttal testimony in front of you?  
 2 A Yes.  
 3 Q Why don't you just turn to page 3, line 4. Have you  
 4 found it?  
 5 A Yes.  
 6 Q On that page you talk about Western Wireless's proposal  
 7 would increase Kennebec's cost. Do you see that?  
 8 A Yes.  
 9 Q You understand that Western Wireless's proposal is less  
 10 expensive than the proposal proffered by your cost  
 11 expert in this case, don't you?  
 12 A I don't think I can answer that because I haven't had a  
 13 chance to examine it or confer with my consultants on  
 14 Western Wireless's plan.  
 15 Q According to your rebuttal testimony you reviewed  
 16 Mr. Williams' proposal and his testimony and his costs  
 17 were contained in that testimony.  
 18 A Yes. Can I ask you a question? Are you referring to  
 19 what we -- was talked about yesterday on the board?  
 20 I'm confused on what we're talking about here.  
 21 Q Yeah. You were here last week is what you're referring  
 22 to?  
 23 A Yeah.  
 24 Q The Western Wireless proposal is to route through a  
 25 two-way trunk with Qwest. You understand that;

1 correct?  
 2 A That's what we're talking about?  
 3 Q That's what I'm talking about.  
 4 A All right.  
 5 Q But you understand that the Western Wireless, that  
 6 routing proposal is less expensive than the routing  
 7 proposal set forth by Mr. Davis?  
 8 A By what you folks say, yes.  
 9 Q Well, nobody else has told you it's more expensive,  
 10 have they?  
 11 A No.  
 12 MR. WIECZOREK: That's all I have.  
 13 MR. SMITH: Ms. Wiest.  
 14 MS. AILTS WIEST: Thank you.  
 15 CROSS-EXAMINATION  
 16 BY MS. AILTS WIEST:  
 17 Q Mr. Bowar, what is your current local rate?  
 18 A Residence line is \$16. A business line is \$25.  
 19 Q And do you have any direct points of interconnection  
 20 with any wireless carrier?  
 21 A No, we don't.  
 22 Q How many wireless carriers are authorized to serve your  
 23 area? Do you know?  
 24 A Authorized to serve, two that I know of.  
 25 Q That would be the same number that are currently

1 serving?  
 2 A I have a problem with the word current -- they're there  
 3 but the service isn't good.  
 4 Q And how many wireless carriers requested LNP through a  
 5 bona fide request?  
 6 A Two.  
 7 Q How did you respond with that?  
 8 A To the bona fide request?  
 9 Q Yes.  
 10 A We are here today because of the bona fide requests.  
 11 Q Did you respond in writing to that?  
 12 A Yeah. We acknowledged the receipt, yes.  
 13 Q And then going to your survey, your survey showed that  
 14 even though 73 percent of the survey respondents have a  
 15 wireless phone, only 2.6 percent would be willing to  
 16 pay a surcharge of \$2. Is that correct?  
 17 A I think that's correct. I'd have to look here.  
 18 Q What do you think is the main reason for the lack of  
 19 demand?  
 20 A The coverage is not good. There's lack of coverage.  
 21 And lack of demand. My customers see no need for this.  
 22 Q Okay.  
 23 MS. AILTS WIEST: That's all I have.  
 24 Thank you.  
 25 MR. SMITH: Do the Commissioners

1 have any questions of Mr. Bowar?  
 2 COMMISSIONER BURG: I'm probably  
 3 just going to ask one in general. What's your  
 4 feeling -- and it's going to be pretty broad -- was  
 5 the purpose of this meeting and at the same time as  
 6 what we're saying that both Congress and the FCC  
 7 has seen value to local number portability, it  
 8 appears to me they saw fit to allow another  
 9 analysis by us, especially in certain  
 10 circumstances. And how would you address that?  
 11 THE WITNESS: I'm not quite sure. I  
 12 haven't thought of that.  
 13 COMMISSIONER BURG: I know it's kind  
 14 of a --  
 15 THE WITNESS: I think the FCC has  
 16 finally realized that there are different instances  
 17 that need a suspension because of the costs and the  
 18 lack of demand. And I think that's why they've  
 19 given the authority to the State Commissions to  
 20 grant suspensions.  
 21 COMMISSIONER BURG: Do you see any  
 22 people -- any of your consumers that would benefit  
 23 from this?  
 24 THE WITNESS: No, I don't.  
 25 COMMISSIONER BURG: Okay. Thank

1 you.  
 2 MR. SMITH: Maybe a point of  
 3 clarification there, the power to suspend is  
 4 provided by both federal and state statute.  
 5 COMMISSIONER BURG: How is it state  
 6 statute?  
 7 MR. SMITH: It reads almost  
 8 identical to the federal statute.  
 9 COMMISSIONER BURG: On this specific  
 10 issue?  
 11 MR. SMITH: Well, on this specific  
 12 issue among others. There are several  
 13 obligations --  
 14 COMMISSIONER BURG: I wasn't aware  
 15 we had state language.  
 16 MR. SMITH: It's basically an  
 17 enabling statute. I think the words are a little  
 18 out of order from the federal statute but its  
 19 substance is identical.  
 20 COMMISSIONER BURG: Was that part of  
 21 our deregulation legislation?  
 22 MR. SMITH: I'm not sure of the  
 23 effective date whether it was that particular  
 24 package or not. My guess is that it -- I can look  
 25 here and see.

1 MR. COIT: I can answer that if you  
 2 would like me to.  
 3 MR. SMITH: Please do.  
 4 MR. COIT: I think the legislation  
 5 on the state side was passed in 1998, two years  
 6 after the '96 Act.  
 7 MR. SMITH: Okay. That was my  
 8 recollection. There was an entire package passed  
 9 in '98 to basically implement the provisions --  
 10 they appear -- I wasn't here back then but they  
 11 appear to have been for the purpose of enabling you  
 12 to implement the provisions of the federal Telecom  
 13 Act and this was one of those.  
 14 A lot of those provisions pretty much track  
 15 provisions in the federal law. And I think one of  
 16 the reasons is to avoid the problem that the North  
 17 Dakota Commission encountered, which is you have a  
 18 federal statute but no state enabling legislation  
 19 and then you're faced with an issue of whether you  
 20 really have jurisdiction, whether the legislature  
 21 has given you jurisdiction to hear the case.  
 22 COMMISSIONER BURG: Thanks. That's  
 23 good clarification for me.  
 24 MR. SMITH: Commissioner Sahr.  
 25 CHAIRMAN SAHR: Mr. Bowar, you were

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1 in the hearing room last week for at least a couple  
2 of days, if not more. Did you have a chance to  
3 review the Western Wireless proposal on routing of  
4 traffic?

5 THE WITNESS: Just on the board  
6 there.

7 CHAIRMAN SAHR: And if this goes  
8 beyond your scope of knowledge, just let me know,  
9 but are there some concerns about phantom traffic  
10 under that proposed routing system?

11 THE WITNESS: This may be beyond my  
12 scope, but, yes, I would have concerns.

13 CHAIRMAN SAHR: And have you ever  
14 looked into -- and it's a little bit hard to ask  
15 you where is your phantom traffic coming from, but  
16 at the same time has there been any sort of  
17 research or has that ever been studied about where  
18 the phantom traffic normally comes from?

19 THE WITNESS: I think there's a  
20 perception today that some of the phantom traffic  
21 is coming from CLECs.

22 CHAIRMAN SAHR: Thank you.

23 MR. SMITH: I have a follow-up  
24 question on the phantom traffic. That phantom  
25 traffic right now is coming to you over the one-way

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1 payment of transit costs to Qwest, payment of  
2 reciprocal comp to Western Wireless, aren't those other  
3 things that need to be considered as part of costs?

4 A Yes.

5 Q And even for a moment if we could set aside the  
6 transport issue and costs, which of course we can't,  
7 Kennebec's costs for implementation are high, aren't  
8 they?

9 A Yes.

10 MS. POLLMAN ROGERS: Just one  
11 minute, please.

12 (Pause)

13 Q Under today's environment, Mr. Bowar, when you  
14 originate traffic and it's destined or going to a  
15 location that is outside of your service area, do you  
16 use Qwest or SDN when you originate traffic?

17 A Originate we use SDN.

18 Q Okay. Under today's environment?

19 A Under today's environment.

20 Q You were asked a few questions by the Commission  
21 concerning phantom traffic, and they asked you, I  
22 think, if -- or made mention of the fact that you were  
23 present at the hearings part of the time last week; is  
24 that correct?

25 A Yes. That's correct.

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1 Qwest tandem trunk?

2 THE WITNESS: That's correct.

3 MR. SMITH: And if this traffic  
4 were -- if the Western Wireless proposal were  
5 implemented, that would be traffic moving the other  
6 direction in the direction of Western Wireless,  
7 wouldn't it?

8 THE WITNESS: Yes.

9 MR. SMITH: So really that phantom  
10 traffic problem will end up being Western  
11 Wireless's problem.

12 THE WITNESS: Probably.

13 MR. SMITH: Okay. That's all I  
14 have. Ms. Rogers, redirect?

15 MS. POLLMAN ROGERS: Just a couple  
16 of things with regard to redirect.

17 REDIRECT EXAMINATION

18 BY MS. POLLMAN ROGERS:

19 Q Even if the Western Wireless proposal is less costly  
20 for Western Wireless, that doesn't mean it is less  
21 costly for you, does it?

22 A Yes. That's correct.

23 Q It would not mean that?

24 A Yeah. It would not mean that.

25 Q Would you also consider a loss of access revenue,

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1 Q And did you hear Mr. Williams make a comment about  
2 phantom traffic when you were in the hearing room?

3 A Yes, I did.

4 Q What was that?

5 A When we were -- during the time Commissioner Burg was  
6 questioning Randy Houdek on the stand, at the time I  
7 did not know who Mr. Williams was, but he turned and  
8 said to the -- when they were discussing if the  
9 transport part was removed Mr. Williams turned to  
10 the -- a blond-headed lady behind him and said, Watch  
11 the phantom traffic go up.

12 Q And you personally heard that statement?

13 A Yes, I did.

14 MS. POLLMAN ROGERS: Thank you.  
15 That's all. Thank you.

16 MR. SMITH: Go ahead, Mr. Wiczorek.  
17 Mr. Coit, I'm assuming you have nothing.

18 MR. COIT: No.

19 RE-CROSS EXAMINATION

20 BY MR. WIECZOREK:

21 Q Your direct testimony sitting in front of you, just  
22 turn to page 3. You responded I believe it was to  
23 Commissioner Burg that nobody in your -- none of your  
24 customers really wanted LNP. However, your own survey  
25 shows that almost 12 percent of customers would be

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1 willing to pay a dollar per month for LNP; correct?

2 A That is correct.

3 Q And, in fact, even at \$2 -- well, at \$3 there's still

4 1.6 percent of the people that would be interested in

5 LNP; correct?

6 A That's correct.

7 Q And did you do this survey at \$1.50? You don't reflect

8 \$1.50 but did you test the \$1.50?

9 A No, we did not.

10 Q And going back to the 12 percent that would be willing

11 to pay a dollar, that's based on your lower

12 demographics that you talked about earlier; correct?

13 Let me ask it this way: You talked about the income of

14 your customer base. Is it a lower base even than most

15 of South Dakota?

16 A We did a comparison to the nation. I guess I'm not

17 sure on South Dakota.

18 MR. WIECZOREK: That's all I have.

19 MR. SMITH: Ms. Wiest, any

20 follow-up?

21 MS. AILTS WIEST: No.

22 MR. SMITH: Any last questions,

23 Commissioners?

24 Anything further, Ms. Rogers?

25

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1 REDIRECT EXAMINATION

2 BY MS. POLLMAN ROGERS:

3 Q You have reviewed the cost estimate prepared by Western

4 Wireless's Mr. Williams, haven't you?

5 A Yes, I have.

6 Q And even under his cost comparison the cost to the

7 Kennebec customers would be \$2.60; is that correct?

8 A That's correct.

9 Q Which would be well over the \$2 mark.

10 A Yes.

11 Q And, again, that does not even address the issue of

12 transport --

13 MR. WIECZOREK: I'm going to object.

14 That's beyond any cross.

15 MR. SMITH: Sustained.

16 Q You were talking about the survey with counsel. Aside

17 from the survey, have you had anyone come in and

18 request LNP?

19 MR. WIECZOREK: I'm going to object

20 as it's beyond cross.

21 MR. SMITH: Overruled.

22 A No, I have not.

23 MS. POLLMAN ROGERS: Thank you.

24 That's all.

25 MR. SMITH: Further questions?

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1 MR. WIECZOREK: I have none.

2 MR. SMITH: You're excused,

3 Mr. Bowar. Thank you. Petitioners, call your next

4 witness.

5 MS. POLLMAN ROGERS: My

6 understanding is you want to do all the managers

7 first; right?

8 MR. SMITH: Whatever you want to do.

9 That's what we have been doing.

10 MR. WIECZOREK: As long as that's

11 okay with the Commission, I think that would just

12 speed it along.

13 MS. POLLMAN ROGERS: We will call

14 Mark Benton to the stand.

15 MARK BENTON,

16 called as a witness, being first duly sworn in the

17 above cause, testified under oath as follows:

18 DIRECT EXAMINATION

19 BY MS. POLLMAN ROGERS:

20 Q Good morning. Would you please state your name and

21 address for the record.

22 A Home address or work address?

23 Q Pardon?

24 A Home or work address?

25 Q Your business, please.

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1 A Mark Benton, 120 East First, Kimball, South Dakota.

2 Q What is your occupation?

3 A General manager.

4 Q And you're appearing today in Docket TC04-052 which is

5 the petition of Midstate Communications?

6 A That's correct.

7 Q Mr. Benton, can you please look at what have been

8 marked as Midstate Exhibits 1 and 2?

9 A Yes.

10 Q And can you identify those?

11 A They are -- in which way, Darla?

12 Q Exhibit 1, what is Exhibit 1?

13 A Exhibit 1 is direct testimony filed by myself and

14 rebuttal testimony also.

15 Q And the rebuttal would be Exhibit 2. Okay. And were

16 these prepared at your -- by you or under your

17 direction?

18 A Under my direction, yes.

19 Q Are there any corrections or additions to your prefiled

20 testimony?

21 A Yes. I have one correction to my rebuttal testimony.

22 Under line 15 I'd like to change the statement from "no

23 experience" to "limited experience with LNP through our

24 CLEC Midstate Telecom."

25 Q What page was that?

1 A 2.  
 2 Q Page 2, line 15. Okay.  
 3 MR. WIECZOREK: Line 15, page 2?  
 4 A It's the second page --  
 5 MR. SMITH: I think it's on page 1.  
 6 A One after the cover page.  
 7 Q So you're just changing "no" to "limited experience"?  
 8 A Correct.  
 9 Q Any other additions or corrections?  
 10 MR. SMITH: Did you also intend to  
 11 add that phrase "through our CLEC" or not or just  
 12 the word "limited"?  
 13 THE WITNESS: I think it would be  
 14 okay to include the words "through our CLEC."  
 15 MR. SMITH: Okay. Thank you.  
 16 Q That's all the corrections and additions?  
 17 A Yes.  
 18 Q Would you please briefly summarize your prefiled  
 19 testimony.  
 20 A To summarize my testimony, I do not believe  
 21 implementing wireline-to-wireless LNP is in the public  
 22 interest based on the fact that Midstate has not  
 23 received requests to date. The demographics of our  
 24 area do not support implementation and internally we  
 25 struggle with justifying the cost versus the benefit of

1 implementing LNP to our members.  
 2 MS. POLLMAN ROGERS: Thank you. At  
 3 this time I would offer Midstate Exhibits 1 and 2.  
 4 MR. WIECZOREK: No objections.  
 5 MS. AILTS WIEST: No objections.  
 6 MR. COIT: No objections.  
 7 MR. SMITH: Midstate's 1 and 2 are  
 8 admitted.  
 9 MS. POLLMAN ROGERS: I would tender  
 10 the witness for cross-examination.  
 11 MR. WIECZOREK: Thank you.  
 12 MR. COIT: No questions.  
 13 MR. SMITH: Mr. Wieczorek.  
 14 MR. WIECZOREK: Thank you,  
 15 Mr. Smith.  
 16 CROSS-EXAMINATION  
 17 BY MR. WIECZOREK:  
 18 Q You're a CLEC. You have a switch -- is the Pukwana  
 19 switch LNP-capable today?  
 20 A Correct.  
 21 Q And you talk about having limited experience with LNP  
 22 through your CLEC. Are you providing LNP through that  
 23 CLEC?  
 24 A Yes, we are.  
 25 Q So your people have been trained -- well, I'm assuming

1 your CLEC and Midstate share some of the same  
 2 employees?  
 3 A That's correct.  
 4 Q So your employees or at least the ones that work in LNP  
 5 have already been trained and understand how to handle  
 6 LNP?  
 7 A That's correct.  
 8 Q If this Commission ordered you to become LNP compliant,  
 9 Midstate to become LNP compliant, you'd use the same  
 10 people to do your LNP work as you use on your CLEC;  
 11 correct?  
 12 A Certainly.  
 13 Q You also have -- turn to your direct testimony, the  
 14 first page after the cover page. I'd like to have  
 15 clarification of one of your answers.  
 16 The question asks whether you have any direct  
 17 points of interconnect but it also says, Does your  
 18 company provide any blocks of number? And you say Yes.  
 19 Do you have direct points of interconnect?  
 20 A With?  
 21 Q With any wireless carrier.  
 22 A Yes.  
 23 Q Okay. How many direct points of interconnect do you  
 24 have and which wireless carriers?  
 25 A I have two with Western Wireless. I have one. Verizon

1 has two.  
 2 Q Two with Western Wireless and then two with --  
 3 A One with Western, two with Verizon.  
 4 Q Okay. Do you provide any blocks in numbers to any  
 5 wireless carrier?  
 6 A No.  
 7 Q Now you understand that the cost analysis done by your  
 8 expert here was based on the routing methods you  
 9 currently use under current arrangements; correct?  
 10 A Correct.  
 11 Q Did you investigate any other types of routing  
 12 arrangements?  
 13 A Based on our contracts we have today, I suspect we  
 14 could not look at those.  
 15 Q So the answer is no, you didn't investigate any other  
 16 routing arrangements?  
 17 A Not to my knowledge.  
 18 Q Is there anything that would prevent you from routing  
 19 traffic over the point of interconnect you currently  
 20 have with Western Wireless, routing ported traffic over  
 21 that point of interconnect?  
 22 A Can you restate that.  
 23 Q Is there anything that would prevent you from routing  
 24 ported number traffic over that point of interconnect  
 25 you currently have with Western Wireless?

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1 A I'd defer to Dan Davis, our expert.  
 2 Q So you don't know?  
 3 A I don't know.  
 4 Q Do you understand that Mr. Davis has projected 60 ports  
 5 a year for your company for the first five years of  
 6 LNP?  
 7 A I think he had to populate it with something. I think  
 8 zero would have raised a red flag.  
 9 Q You understand you have the rights to have an end-user  
 10 surcharge apply to recover your costs for LNP  
 11 implementation?  
 12 A Yes.  
 13 Q And you also collect USAC support for your switches;  
 14 correct?  
 15 A Yes.  
 16 Q And high-cost support also?  
 17 A Yes.  
 18 Q And it would be your intent in calculating for future  
 19 support to include any LNP upgrades, wouldn't it?  
 20 A To the best of my knowledge.  
 21 Q To the best of your knowledge yes?  
 22 A Yes.  
 23 MR. WIECZOREK: That's all I have.  
 24 MR. SMITH: Ms. Wiest.  
 25

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1 CROSS-EXAMINATION  
 2 BY MS. AILTS WIEST:  
 3 Q Mr. Benton, what is your current local rate?  
 4 A Our local rate is 13.95 for rural. Rural business  
 5 14.95. Business is 19.95, except for Platte is \$24.  
 6 Q And do you know how many wireless carriers have the  
 7 authority to serve your area?  
 8 A Two.  
 9 Q And those would be?  
 10 A Western Wireless and Verizon.  
 11 Q And those wireless carriers are currently serving your  
 12 area?  
 13 A Correct.  
 14 Q And how many wireless carriers have requested LNP  
 15 through a BFR?  
 16 A I believe Western Wireless is the only one that was --  
 17 we considered a legitimate BFR. I think Verizon was  
 18 not.  
 19 Q Why wasn't that legitimate? Do you remember?  
 20 A It was more of a memo form -- a lot of stuff has  
 21 happened so --  
 22 Q Okay. So you considered that you have one?  
 23 A To my knowledge, yes.  
 24 Q And you mentioned the Pukwana switch is LNP capable.  
 25 Why is that switch LNP capable?

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1 A That is where we switch our CLEC traffic to  
 2 Chamberlain.  
 3 MS. AILTS WIEST: Thanks. That's  
 4 all I have.  
 5 MR. SMITH: Commissioners, any  
 6 questions for Mr. Benton?  
 7 CHAIRMAN SAHR: I have a couple.  
 8 Good morning, Mr. Benton.  
 9 THE WITNESS: Good morning.  
 10 CHAIRMAN SAHR: You mentioned or it  
 11 was mentioned talking about your competitive  
 12 ventures. Can you just talk a little bit about  
 13 where you're offering service in other people's --  
 14 THE WITNESS: Our CLEC?  
 15 CHAIRMAN SAHR: Yes.  
 16 THE WITNESS: We're offering service  
 17 in Chamberlain and the Oacoma area, which is  
 18 actually considered the Chamberlain exchange.  
 19 CHAIRMAN SAHR: Who is the incumbent  
 20 in that area?  
 21 THE WITNESS: Qwest.  
 22 CHAIRMAN SAHR: And with Qwest and  
 23 Midstate is there number portability?  
 24 THE WITNESS: Yes, there is number  
 25 portability between us.

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1 CHAIRMAN SAHR: And is that  
 2 something that you think makes it easier for a  
 3 competitor to advertise his customers to switch  
 4 from one provider to another?  
 5 THE WITNESS: We have not  
 6 experienced that. We only have eight LNP out of  
 7 our total 878 customers.  
 8 CHAIRMAN SAHR: I'm sorry. Could  
 9 you repeat that?  
 10 THE WITNESS: We only have eight  
 11 that have actually ported out of 787.  
 12 CHAIRMAN SAHR: Most of them have  
 13 taken a new phone number on?  
 14 THE WITNESS: Correct.  
 15 CHAIRMAN SAHR: So your actual  
 16 pragmatic practical experience would be, at least  
 17 on the landline to landline side of things, it did  
 18 not appear to be a huge hurdle for people?  
 19 THE WITNESS: No.  
 20 CHAIRMAN SAHR: Thank you.  
 21 MR. SMITH: Ms. Rogers.  
 22 REDIRECT EXAMINATION  
 23 BY MS. POLLMAN ROGERS:  
 24 Q Just a couple of points of clarification. I was just  
 25 going to clarify that the porting at Pukwana, if there



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1 is any, that would be wireline to wireline; is that  
 2 correct?  
 3 A That's correct.  
 4 Q So that's where your experience to date has been?  
 5 A Yes.  
 6 Q You talked -- or Mr. Wieczorek asked you about direct  
 7 connections with Western Wireless and Verizon. The  
 8 points of interconnection with Western Wireless were  
 9 established for the purpose of delivering  
 10 landline-originated calls that are local; is that  
 11 correct?  
 12 A That's correct.  
 13 Q And so calls that are not local that are interexchange,  
 14 they're not delivered to these points of  
 15 interconnection, are they?  
 16 A That's correct.  
 17 Q They are delivered to an --  
 18 A IXC.  
 19 MS. POLLMAN ROGERS: Thank you.  
 20 Nothing further.  
 21 MR. SMITH: Mr. Wieczorek?  
 22 MR. WIECZOREK: I just have a short  
 23 follow-up.  
 24  
 25

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1 RECROSS-EXAMINATION  
 2 BY MR. WIECZOREK:  
 3 Q Out your 787 CLEC lines how many have you added since  
 4 November of 2003?  
 5 A 170.  
 6 Q Okay. Eight of those then would be ports?  
 7 A Through the two years we've had eight ports.  
 8 Q Okay.  
 9 MR. WIECZOREK: Thank you. That's  
 10 all.  
 11 MR. SMITH: Commissioner Burg?  
 12 COMMISSIONER BURG: Of those ports  
 13 which way were they ported?  
 14 THE WITNESS: They retained their  
 15 Qwest number instead of taking our new NXX.  
 16 COMMISSIONER BURG: Have you had any  
 17 that -- have you had any customers switch back to  
 18 Qwest?  
 19 THE WITNESS: One.  
 20 COMMISSIONER BURG: Did that person  
 21 take their number with them?  
 22 THE WITNESS: They took our number.  
 23 COMMISSIONER BURG: That's what I  
 24 meant. But they ported the other way.  
 25 THE WITNESS: They kept our NXX,

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1 yes.  
 2 COMMISSIONER BURG: This is probably  
 3 not as much of a question as a comment over the  
 4 weekend that came out or the last week came out  
 5 somebody's probably going to put out a directory  
 6 now that we have LNP and I've had more people say I  
 7 don't want to be in the directory than anything.  
 8 They're unhappy because the directory is talking  
 9 about being printed. So the idea of taking that  
 10 number with them is not receptive to everybody.  
 11 MR. SMITH: I have a clarifying  
 12 question on the date of November. Because it was a  
 13 wireline-to-wireline porting situation was that the  
 14 trigger date for implementing LNP, or had you  
 15 implemented it already?  
 16 THE WITNESS: We implemented day one  
 17 when we started.  
 18 MR. SMITH: So you started before  
 19 November.  
 20 THE WITNESS: Yes.  
 21 MR. SMITH: Okay. Thank you.  
 22 Ms. Rogers, anything else?  
 23 MS. POLLMAN ROGERS: That's all.  
 24 Thank you.  
 25 MR. SMITH: Thank you. You're

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1 excused, Mr. Benton. Thanks a lot.  
 2 Ms. Rogers, please call your next witness.  
 3 MS. POLLMAN ROGERS: We would call  
 4 Todd Hansen, Beresford.  
 5 TODD HANSEN,  
 6 called as a witness, being first duly sworn in the  
 7 above cause, testified under oath as follows:  
 8 DIRECT EXAMINATION  
 9 BY MS. POLLMAN ROGERS:  
 10 Q Good morning.  
 11 A Good morning.  
 12 Q Would you please state your name and business address  
 13 for the record.  
 14 A My name is Todd Hansen, Beresford Municipal Telephone,  
 15 101 North Third Street, Beresford 57004.  
 16 Q What is your occupation?  
 17 A General manager.  
 18 Q And, Todd, how long have you been employed in that  
 19 capacity?  
 20 A Approximately 60 days.  
 21 Q Okay. You took over for -- your predecessor's retired?  
 22 A That's correct.  
 23 Q That was who?  
 24 A Wayne Akland.  
 25 Q That might be a familiar name down here. So you walked

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1 into LNP as part of your duties; is that correct?

2 A Yes, I did.

3 Q You have in front of you what has been marked as

4 Beresford Exhibits 1 and 2, and we are in Docket

5 04-048. Can you identify those.

6 A Yes. Exhibit 1 is my direct prefiled testimony and

7 Exhibit 2 is my rebuttal testimony.

8 Q Did you prepare these or were they prepared at your

9 direction?

10 A Yes, I did.

11 Q Do you have any corrections or additions that you would

12 like to make to your prefiled testimony?

13 A Yes, I do.

14 Q What would those be?

15 A On the first page, Does your company have any direct

16 points of interconnection? Yes, we do. Direct

17 interconnection with Sprint.

18 Q Okay. And this would be the first page of your direct

19 testimony?

20 A That's correct.

21 Q On line 12?

22 A That's right.

23 Q Any other additions or corrections?

24 A Yes. On the first page, question 16.

25 Q The question on line 16, you mean?

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1 A That's correct.

2 Q And that's the current method of routing calls from

3 your subscriber's landline phones to wireless phone

4 numbers?

5 A Yes. I'd like to add to the answer 751 is routed

6 directly to Sprint.

7 Q So you would add that on the end of line 21?

8 A That's correct.

9 Q Any other additions or corrections?

10 A No.

11 Q And other than those additions and corrections if I

12 asked you the questions contained in Beresford Exhibits

13 1 and 2 today, would your answers be the same?

14 A Yes.

15 Q Would you please briefly summarize your prefiled

16 testimony?

17 A Since we have received no customer requests for LNP it

18 would seem that there is little interest, necessity or

19 customer demand for the convenience of LNP. As such,

20 it would seem to be in conflict with the public

21 interest to require the implementation of LNP at this

22 time because of the kind of costs that would be

23 involved.

24 MS. POLLMAN ROGERS: At this time we

25 would offer Beresford Exhibits 1 and 2.

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1 MR. LEWIS: No objection.

2 MR. COIT: No objection.

3 MS. AILTS WIEST: No objection.

4 MR. SMITH: Thank you. Beresford 1

5 and 2 are admitted.

6 MS. POLLMAN ROGERS: We would tender

7 the witness for cross-examination.

8 MR. COIT: No questions.

9 MR. SMITH: Mr. Lewis.

10 MR. LEWIS: Thank you. Good

11 morning, members of the Commission, counsel.

12 CROSS-EXAMINATION

13 BY MR. LEWIS:

14 Q Good morning to you, Mr. Hansen.

15 A Good morning.

16 Q My name is Paul Lewis and I represent Western Wireless

17 in this Docket and I have a few questions for you.

18 Sir, you understand that in 1996 the FCC made

19 LNP a requirement, did they not?

20 A Yes.

21 Q And then by virtue of their Order on November 10 of

22 2003 they ordered compliance for your company to be

23 achieved by May 24, 2004 unless you have an exception

24 for that; correct?

25 A That's correct.

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1 Q You also understand, sir, that federal law or FCC

2 regulations allow you to recover some of the costs for

3 LNP implementation through a surcharge?

4 A I don't know.

5 Q Have any wireless carriers requested LNP from you?

6 A Not to the best of my knowledge.

7 Q Sir, would you refer to your direct testimony on page

8 2, line number 7, the question which states, "Have any

9 wireless carriers requested LNP?" And your answer on

10 line 8 is?

11 A It is "Yes."

12 Q Thank you.

13 A Can I restate that? We have had -- reviewing the file

14 we have had bona fide requests from three carriers.

15 Q Who would those three carriers be?

16 A I believe they're Verizon, Sprint, and Western

17 Wireless.

18 Q Thank you. Sir, for your cost numbers filed before the

19 Commission you basically relied on Mr. Davis's work,

20 did you not?

21 A Yes.

22 Q And do you understand how he came up with the analysis?

23 A Generally I do, yes.

24 Q So you have a working knowledge of it?

25 A A little bit.

1 Q Okay. And in your testimony on page 2 -- and as well  
2 as what you stated before the Commission a few moments  
3 ago you said that basically there's no customer  
4 interest for LNP; correct?  
5 A To the best of my knowledge, no.  
6 Q Did you know that your cost analyst estimated at least  
7 24 ports per year would be requested?  
8 A I'm aware of those figures.  
9 Q Would it surprise you to know that over the next five  
10 years you're going to lose approximately 8 percent of  
11 your wire lines to porting?  
12 A I don't know.  
13 Q You have already established points of interconnection,  
14 POIs, with SDN and Qwest; correct? Those already  
15 exist?  
16 A I believe so.  
17 Q Today before the Commission do you have any demographic  
18 information to present concerning your customer  
19 preferences or --  
20 A No, I do not.  
21 Q -- their general demographics? And in addition to that  
22 you have not done any independent or internal surveys  
23 from your office to survey your customers on this  
24 issue?  
25 A I myself have not.

1 Q Sir, you review your revenue numbers on a regular  
2 basis, do you not, in your 60 days?  
3 A No, I do not.  
4 Q Do you have an understanding what your revenue numbers  
5 are?  
6 A To a certain extent.  
7 Q Okay. Would you agree that USAC is part of those  
8 revenue numbers?  
9 A I don't know.  
10 Q Do you know whether or not you can collect high-cost  
11 support, switch support through USAC payments if that's  
12 available through USAC?  
13 A I've heard the terms, but to be honest, I don't know.  
14 Q Sir, to date have you investigated any other porting or  
15 routing options?  
16 A I have not.  
17 Q In the course of conversations with your consultants,  
18 would you agree that LNP is technically feasible?  
19 A I don't know.  
20 Q And if the Commission requested -- or if the Commission  
21 required you to implement LNP, you would have the  
22 ability to finance and pay for it; correct?  
23 A That's correct.  
24 MR. LEWIS: Thank you. No further  
25 questions.

1 MR. SMITH: Ms. Wiest.  
2 CROSS-EXAMINATION  
3 BY MS. AILTS WIEST:  
4 Q Mr. Hansen, what is your current local rate?  
5 A \$7 residential, 17.50 business.  
6 Q And do you know how many wireless carriers have the  
7 authority to serve your area?  
8 A I believe there's three.  
9 Q And those would be the same three that have requested a  
10 BFR, Verizon, Sprint, and Western Wireless?  
11 A That's what I'm basing my answer off of, yes.  
12 Q To your knowledge those carriers are currently serving  
13 your area?  
14 A Yes.  
15 MS. AILTS WIEST: Thank you. That's  
16 all I have.  
17 MR. SMITH: Commissioner questions?  
18 Ms. Rogers.  
19 REDIRECT EXAMINATION  
20 BY MS. POLLMAN ROGERS:  
21 Q In your 60 days on the job have you had any requests  
22 for LNP?  
23 A No, I have not.  
24 Q And in that time you haven't really had the opportunity  
25 or time to do any surveys or anything like that, have

1 you?  
2 A No, I have not.  
3 MS. POLLMAN ROGERS: Thank you.  
4 That's all.  
5 MR. SMITH: Mr. Lewis?  
6 MR. LEWIS: No further questions.  
7 MR. SMITH: You're excused,  
8 Mr. Hansen. Thank you for your testimony.  
9 THE WITNESS: Thank you.  
10 MR. SMITH: Are we moving to a  
11 different category here?  
12 MS. POLLMAN ROGERS: Yes.  
13 MR. SMITH: Do you want to take a  
14 short break or do you want to plow forward?  
15 MS. POLLMAN ROGERS: Let's take  
16 maybe 5 minutes.  
17 MR. SMITH: Okay.  
18 (A short recess is taken)  
19 MS. POLLMAN ROGERS: Petitioners  
20 would call Dan Davis to the stand.  
21 DAN DAVIS,  
22 called as a witness, being first duly sworn in the  
23 above cause, testified under oath as follows:  
24 (Exhibit Western 1, Davis 1 and 2, Midstate 1 through  
25 3, Beresford 1 through 3, and Kennebec 1 through 3 are

1 marked for identification)  
 2 DIRECT EXAMINATION  
 3 BY MS. POLLMAN ROGERS:  
 4 **Q** Good morning.  
 5 **A** Good morning.  
 6 **Q** Would you please state your name and business address  
 7 for the record.  
 8 **A** Yes. My name is Dan Davis. I am employed with Telec  
 9 Consulting Resources. My business address is  
 10 233 South 13th Street, Suite 1225, Lincoln, Nebraska  
 11 68508.  
 12 **Q** And you are appearing today on behalf of five  
 13 companies; is that correct?  
 14 **A** That is correct.  
 15 **Q** Could you identify them?  
 16 **A** Yes. Kennebec Telephone Company, Midstate  
 17 Communications, Inc., Beresford Municipal Telephone  
 18 Company, Western Telephone Company, RC Communications,  
 19 Inc., and Roberts County Telephone Cooperative  
 20 Association.  
 21 **Q** And could you please just very briefly give us a  
 22 background of your experience.  
 23 **A** I've been employed in the telecommunications industry  
 24 for 19 years. I worked in the areas of regulatory  
 25 policy and analysis at a company called Lincoln

1 Telephone Company, later renamed Aliant Communications  
 2 and was later bought out by ALLTEL Communications.  
 3 During that period of time I also worked as  
 4 the regulatory and finance manager for a start-up CLEC  
 5 organization based in Omaha, Nebraska.  
 6 **Q** You may have stated this, and I did not hear you, but  
 7 how long have you been with Telec?  
 8 **A** I've been with Telec for three and a half years.  
 9 **Q** Thank you. There are several exhibits on the table in  
 10 front of you, and I would first of all direct your  
 11 attention to Davis Exhibits 1 and 2. Could you please  
 12 identify those exhibits?  
 13 **A** Exhibit 1 is my direct testimony that I filed on behalf  
 14 of the companies I just mentioned. Exhibit 2 is my  
 15 rebuttal testimony that I filed in the Dockets that I  
 16 also just mentioned.  
 17 **Q** And in addition to Davis Exhibits 1 and 2, did you also  
 18 file direct testimony in each Docket of the companies  
 19 you represent?  
 20 **A** Yes, I did.  
 21 **Q** I would ask you then to look at Beresford Exhibit 3,  
 22 Kennebec Exhibit 3, Midstate Exhibit 3, and Western  
 23 Telephone Company Exhibit 1.  
 24 **A** I have looked at them.  
 25 **Q** And can you tell me what those documents are?

1 **A** Those documents are the testimony on specific costs for  
 2 the specific companies.  
 3 **Q** Do you have any corrections or additions you would like  
 4 to make to any of your prefiled testimony?  
 5 **A** I believe, yes. On page 9 of Exhibit 1.  
 6 **Q** That would be Davis Exhibit 1?  
 7 **A** Yes. On line 17 where it says, "pages N-1 through N-10  
 8 of Exhibit B" should be changed to "N-1 through N-9 of  
 9 Exhibit A."  
 10 **Q** And do you have any other additions or corrections to  
 11 your prefiled testimony?  
 12 **A** I do not at this time.  
 13 **Q** Mr. Davis, if I asked you the questions contained in  
 14 all of the exhibits we've just been discussing today,  
 15 would your answers be the same?  
 16 **A** Yes, they would.  
 17 **Q** Could you please briefly summarize your prefiled  
 18 testimony?  
 19 **A** Yes. After the FCC released its November 10, 2003  
 20 intermodal local number portability order personnel  
 21 representing each of the RLECs that I represent and  
 22 Telec Consulting personnel began an in depth analysis  
 23 of new processes which would be required to implement  
 24 local number portability and costs that would have to  
 25 be incurred to implement local number portability.

1 This review included the preparation of an estimate of  
 2 costs related to local number portability for each of  
 3 the RLECs. And I refer to the RLECs as basically the  
 4 companies that I represent here today. I will discuss  
 5 them as the RLECs.  
 6 A detailed explanation of the estimate is  
 7 contained in my direct testimony. Each unique  
 8 individual RLEC estimate reflects the cost of local  
 9 number portability as calculated for each company. If  
 10 the RLECs are not responsible for transport costs,  
 11 which we contend that they are not, the estimate -- or  
 12 the estimated costs for local number portability range  
 13 from a per-line per-month cost of \$1.15 for Midstate  
 14 Communications to \$4.56 per line per month for Western  
 15 Telephone Company.  
 16 If for some reason the RLECs would be  
 17 financially responsible for transporting calls using  
 18 DS-1 direct connections, the estimated costs range from  
 19 a low of \$3.04 per line per month for Midstate  
 20 Communications to \$11.58 per line per month for  
 21 Kennebec Telephone Company.  
 22 The estimates are organized between one-time  
 23 nonrecurring costs to implement local number  
 24 portability and monthly recurring local number  
 25 portability costs.

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1 In summary, the overall nonrecurring costs  
2 for local number portability for the RLECs, estimates I  
3 completed as approximately \$519,000. And just for  
4 clarification that number does include RC and Roberts  
5 Communications. And for comparison, the estimated  
6 costs completed by Mr. Williams for these same  
7 companies was approximately \$469,000.

8 The cost categories that are included on the  
9 RLEC's cost exhibits are the same cost categories as  
10 was explained by Mr. Bullock last week.

11 With respect to transport costs, the RLECs  
12 calculated transport costs using a DS-1 direct  
13 connection from each host or stand-alone end office  
14 switch location. Traffic that originates from a remote  
15 switch was assumed to be transported on the same DS-1  
16 as used by its host switch.

17 For example, in the case of Kennebec  
18 Telephone Company, Presho is remote off of the Kennebec  
19 host switch. In this example one DS-1 was assumed to  
20 be placed from the Kennebec host to each wireless  
21 provider's point of interconnection or POI. A separate  
22 DS-1 from Presho was not assumed or used in the cost  
23 calculation.

24 Calls to ported numbers would then be carried  
25 over these DS-1s to a POI located within an RLEC's

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1 service area or exchange where the RLEC would then  
2 connect with the wireless provider who would transport  
3 the calls back to its switch. This routing arrangement  
4 was assumed for two reasons. First, routing of local  
5 calls to a point of interconnection located within the  
6 RLEC exchange is consistent with the terms of the  
7 Interconnection Agreement entered into between Western  
8 Wireless and the RLECs.

9 Second, RLECs do not route local traffic to a  
10 point of interconnection outside of its local exchange  
11 or service area. Requiring RLECs to route traffic to a  
12 point of interconnection outside of its exchange or  
13 service area would add the responsibility of a LEC from  
14 providing local exchange service and exchange access to  
15 providing interexchange service as well.

16 And this concludes my summary.

17 Q Thank you.

18 MS. POLLMAN ROGERS: At this time  
19 Petitioners would offer Davis Exhibits 1 and 2,  
20 Beresford Exhibit 3, Kennebec Exhibit 3, Midstate  
21 Exhibit 3, and Western Telephone Company Exhibit 1.

22 MR. WIECZOREK: I have no objection.  
23 MR. COIT: No objection.  
24 MS. AILTS WIEST: No objection.  
25 MR. SMITH: Davis 1 and 2, Kennebec

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1 3, Midstate 3, Beresford 3 and is it Western 1?  
2 MS. POLLMAN ROGERS: Yes.  
3 MR. SMITH: Are admitted.  
4 MS. POLLMAN ROGERS: Thank you. I  
5 would tender the witness for cross-examination.  
6 MR. COIT: No questions.  
7 MR. SMITH: Mr. Wieczorek.  
8 MR. WIECZOREK: Thank you,  
9 Mr. Smith.

10 CROSS-EXAMINATION

11 BY MR. WIECZOREK:

12 Q Mr. Davis, I'm going to ask you some general questions,  
13 and then I'm probably going to ask cost-specific  
14 questions to the companies that have either already  
15 testified or in Western's case isn't submitting  
16 corporate testimony.

17 If you're ever confused as to whether I'm  
18 asking about a specific company or just generally, just  
19 let me know, all right?

20 A Okay.

21 Q The one place I'd like to start is your rebuttal  
22 testimony, Exhibit R-1.

23 A Okay.

24 Q Which you have in front of you; correct?

25 A I have that in front of me, correct.

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1 Q And this is a matrix showing your costs -- or your  
2 projected costs and then showing the costs as reflected  
3 on Western Wireless's Exhibit 5A, 5A being the exhibit  
4 to Mr. Williams' direct, for the record; correct?

5 A That is correct.

6 Q Are these your most up-to-date numbers, the numbers  
7 reflected on Exhibit R-1?

8 A Yes.

9 Q Okay. And the reason I ask is there was a cost exhibit  
10 attached to the petition and then some of those numbers  
11 were modified as part of, I believe, your direct;  
12 correct?

13 A That is correct.

14 Q But rather than work off of those cost exhibits, if we  
15 work off of R-1, that should be your most up-to-date  
16 numbers for all companies?

17 A That is correct.

18 Q So when we're talking about numbers let's refer to R-1.

19 A Okay.

20 Q Now you're not testifying to this Commission that LNP  
21 is technically infeasible, you're just presenting  
22 testimony regarding the cost to implement; correct?

23 A Well, I am presenting cost but I believe in my direct  
24 testimony I did state that I believe that it is  
25 technically infeasible under the current arrangements.

1 Q Under the current cost?

2 A Under the current routing arrangements that are in

3 place today, I believe my testimony was that it is

4 technically infeasible to route traffic down those

5 trunk groups.

6 Q Yeah. But that's trunk groups. And I don't want to

7 get into any confusion here but what you have proposed,

8 your method, that's technically feasible today;

9 correct?

10 A That is correct, yes.

11 Q Okay. And if I understand your testimony correctly,

12 you contend that Western Wireless's proposal is

13 technically infeasible because of the existing

14 agreements.

15 A That is correct.

16 Q Mr. Bullock's with your company too; correct?

17 A That is correct.

18 Q And if I understand your and his testimony correctly,

19 your prefiled testimony, both you and he are proposing

20 your proposed routing, the one that you say is

21 technically feasible today -- you guys are proposing

22 the identical type of way to route; correct?

23 A Correct, yes.

24 Q You guys are essentially using the same type of

25 breakdown in formula but you're testifying for some

1 companies and he's testifying for others?

2 A That is correct.

3 Q You provide -- I believe you actually said in your

4 summary that you actually provide services to other

5 rural LECs besides the ones you're testifying here for.

6 A That is correct.

7 Q What other states do you represent rural LECs?

8 A Telec Consulting does business in Nebraska,

9 South Dakota, Iowa, and Ohio.

10 Q Okay. And you have actually some of your companies

11 have already started providing LNP; is that correct?

12 A I am aware of at least one, yes. Well, in addition to

13 Midstate Communications. Just as a matter of

14 clarification are you talking about wireline to

15 wireline or wireless to -- or wireline to wireline or

16 wireline to wireless?

17 Q For the purposes of my questions since I represent

18 Western Wireless -- I'm sorry, I should have identified

19 that, the questions will be based on wireline to

20 wireless.

21 A Okay.

22 Q And, again, if you have a question as to whether it

23 goes beyond that, make sure you ask me before

24 responding.

25 A Okay.

1 Q I would like to start with Western Wireless Exhibit No.

2 16. I'll show it to you. To establish your costs you

3 asked the companies that you were testifying on behalf

4 of to obtain some information on switch upgrades and

5 things like that; correct?

6 A Correct.

7 Q Now that's a letter to the Kennebec manager that sets

8 forth some switch upgrade costs; correct?

9 A Yes.

10 Q And what's the -- I'm sorry. What's the first line of

11 that switch upgrade cost?

12 A Cost to upgrade the host office.

13 Q This upgrade -- so they're upgrading the host office.

14 That upgrade doesn't make Kennebec LNP compliant, would

15 it, that one-line upgrade?

16 A Well, if they don't upgrade this software to this

17 generic, they cannot implement local number

18 portability.

19 Q That's the generic baseline upgrade they need?

20 A That's correct.

21 Q If I can use the word that's the platform they have to

22 launch LNP from?

23 A That is correct, yes.

24 Q What other benefits will they derive from that upgrade?

25 A Actually I don't know.

1 Q Okay. So you don't know if that provides extra

2 services?

3 A I don't know.

4 Q Okay. But you're including that as a cost for LNP

5 upgrade even though it might include other services?

6 A Well, as I stated, without including or upgrading to

7 this generic, customers aren't going to get LNP.

8 Q Your companies upgrade their switches and software on a

9 regular basis, don't they?

10 A On a regular basis, I'm assuming, yes.

11 Q Can you testify as to how long they could go in their

12 current -- with their current software for doing that

13 upgrade that's listed on line 1 if they didn't have to

14 go LNP compliant?

15 A No, I couldn't. I don't know.

16 Q Did you ask your client whether they projected doing

17 that upgrade at any time in the near future anyway?

18 A I did not, no.

19 Q Okay. So for Kennebec what you've projected, switch

20 upgrade costs of 47,9. How much is that a platform

21 upgrade?

22 A It was the 31,400 plus the \$6,000 of installation and I

23 believe that that pro rata coverage line also would be

24 included in the generic upgrade.

25 Q Okay. So how much of that then from that platform

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1 would be the upgrade just for the LNP software?

2 A For the software specifically --

3 Q For LNP?

4 A -- for LNP was the \$3,904 and the 20 hours of

5 translations cost.

6 Q And what was that cost?

7 A 3,700.

8 Q So something less than \$8,000?

9 A Yeah.

10 Q I'd like to talk about your Midstate's upgrade costs.

11 You obtained that information from Midstate also?

12 A Yes.

13 Q Now you have some of your documents sitting in front of

14 you, and not all of these -- the documents that you

15 have in front of you is information you obtained from

16 the companies so you could establish your basis for

17 some of these upgrade costs; correct?

18 A I had discussions either with the company or with the

19 company's technical engineer.

20 Q Okay. What is included in Midstate's switch upgrade

21 cost? Can you tell me?

22 A They would have to upgrade each one of their switches.

23 Q When you say --

24 A For the LNP software.

25 Q Okay. So when you talk about upgrade each one of their

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1 switches for the LNP software, could you give me how

2 much you calculate that to be?

3 A You want switch by switch or in total?

4 Q Just a total would be fine because that's how you have

5 it on your Exhibit R-1.

6 A Okay. 29,460.

7 Q Okay. And that covers the activation fee for the LNP

8 software?

9 A I don't have any activation fee down.

10 Q Okay. What else do you have under that then?

11 A Switch translations and installation.

12 Q Installation of the software?

13 A Yes.

14 Q Okay. And what else is under that?

15 A TAS assistance.

16 Q What's TAS assistance?

17 A Technical assistance support.

18 Q Okay. And then finally -- well, anything else that's

19 contained under that?

20 A No.

21 Q All right. I'm going to show you a copy of an e-mail

22 that went to Mr. Bullock providing some information on

23 switch upgrade costs. Can you read that first item on

24 switch upgrade costs out loud for the record, please.

25 It starts with number 1.

1003

1 A Okay.

2 MS. POLLMAN ROGERS: Just a minute.

3 Could we please have some clarification. Who's it

4 from?

5 MR. WIECZOREK: This is an e-mail

6 that's been produced pursuant to discovery to Tom

7 Bullock from Peg and it has reasons -- it was

8 produced pursuant to discovery by Midstate and it

9 has Re: LNP cost estimation supporting

10 documentation. It's identified as Peggy Reinesch,

11 R-E-I-N-E-S-C-H, office manager Midstate

12 Communications.

13 MS. POLLMAN ROGERS: Which discovery

14 round was that?

15 MR. WIECZOREK: Second round of

16 discovery.

17 Q Could you read it out loud for the record, that first

18 item.

19 A Sure.

20 Q I'll just have you take it out. It will be easier to

21 refer to.

22 A All right. "Switch upgrade cost Nortel DMS-10,

23 \$28,849.60. The activation fee would be waived since

24 we are using an SR-10 program at a cost of 91,540 for

25 the years 2004 and 2005."

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1 Q So the first number that I believe you used and related

2 to me, is that switch upgrade costs, the 28,849.60?

3 A Approximately, yes.

4 Q So what does that entail if the activation fee is being

5 waived?

6 A That's the cost per equipped line. That is what Nortel

7 charges their DMS-10 subscribers on an equipped line

8 basis.

9 Q That's not part of the activation fee?

10 A The 29,460 or that first number that I read on that

11 e-mail is -- no. There's no activation fee in the

12 29,460.

13 Q All right. Okay. Then I have some questions on the

14 Western telephone switch upgrade costs.

15 A Okay.

16 Q Do you have your summary?

17 A I do.

18 Q Okay.

19 A Actually I don't have -- are you looking at something

20 specific?

21 Q Yeah. In fact, why don't I go ahead and mark it. It

22 will be easier than you hunting it down.

23 A Okay.

24 (Exhibit WWC 17 is marked for identification)

25 Q This has been marked as Western Wireless Exhibit 17,

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1 and, Mr. Davis -- I almost called you Mr. Bullock. I  
 2 apologize. Can you identify what Western Wireless  
 3 Exhibit No. 17 is for the record, please.  
 4 A It's the cost to upgrade the Western telephone switch.  
 5 Q And this is actually from your files, your information  
 6 of how you calculated this?  
 7 A This is also -- I received the information from their  
 8 engineering consultant.  
 9 Q Yeah. And then you plugged it in to this calculation  
 10 and you came up with the Western number of \$145,900?  
 11 A That's correct.  
 12 Q And again on this -- similar to what you had on  
 13 Kennebec you have an upgrade to host switch; correct?  
 14 A That is correct.  
 15 Q And that is 76,795.  
 16 A That's correct.  
 17 Q And the install for the upgrade, that's just related to  
 18 the upgrade of the host switch, it's not related to LNP  
 19 software; correct?  
 20 A Well, I would answer it in a like manner that I did  
 21 with Kennebec. In order to have the LNP functionality,  
 22 they'd have to upgrade their switch.  
 23 Q Okay. And then the spares, is that related to upgrade  
 24 of the host where it says spares, third line?  
 25 A Those would -- since they're above the line item called

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1 LNP software and installation it would be related to  
 2 the upgrade of the host.  
 3 Q Okay. And did you check with Western as to whether  
 4 they got any other services based on this upgrade to  
 5 the host?  
 6 A No, I didn't.  
 7 Q Did you check with Western as to whether they had  
 8 planned to upgrade this host at any time in the future?  
 9 A I did not.  
 10 Q So once the host is upgraded the only LNP-related  
 11 cost -- or the only costs related to bringing the host  
 12 LNP compliant are the last three lines on Exhibit 17;  
 13 is that correct? Or the last three items.  
 14 A Well, again, they have to upgrade their switch in order  
 15 to have the LNP capability.  
 16 Q Right. Have you ever worked with SDTA before?  
 17 A SDTA?  
 18 Q Yeah. South Dakota Telecommunications Association.  
 19 A I've had discussions with Rich Coit before, yes.  
 20 Q Well, the reason I ask, under other internal costs you  
 21 have included costs of negotiating porting agreements  
 22 with cellular providers, intercarrier porting forms and  
 23 trading partner profiles as part of the expenses; is  
 24 that correct?  
 25 A That is correct.

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1 Q And in projecting those costs you've assumed every  
 2 company you're testifying for will do that on their  
 3 own; correct?  
 4 A I'm not sure if I actually assume that or not.  
 5 Q Well --  
 6 A I mean, I --  
 7 Q There's no reference in any of the materials you  
 8 provided through discovery where you considered  
 9 economies of scale if some of these companies went  
 10 together.  
 11 A I don't know. Three days per contract I assumed was  
 12 fairly efficient.  
 13 Q Right. And if -- did you know that SDTA often group  
 14 negotiates with cellular providers to save costs to all  
 15 of its members?  
 16 A I'm not aware of that.  
 17 Q So you didn't take that into consideration, that SDTA  
 18 might negotiate all of these agreements --  
 19 A No, I didn't. I didn't ask SDTA to do our cost  
 20 analysis.  
 21 Q Now to the extent that a wireless company already has a  
 22 point of interconnect with a switch of one of your  
 23 companies you're testifying on behalf of, there would  
 24 be no additional transport costs; correct?  
 25 A I'm going to make sure I understand your question so I

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1 can answer it correctly. I mean, do you want me to  
 2 explain to you --  
 3 Q How about if I use an example.  
 4 A Okay.  
 5 Q And though this current situation doesn't exist, I'm  
 6 going to take it as a hypothetical. You used Kennebec  
 7 before.  
 8 A Okay.  
 9 Q If Western Wireless or any other cellular company, for  
 10 that matter or CMRS provider, had a point of  
 11 interconnect with Kennebec at its switch in Kennebec,  
 12 there would be no related -- there would be no increase  
 13 in transport costs under the method that you have  
 14 proposed.  
 15 A That is correct. That was our cost assumption.  
 16 Q And the only reason you have transport costs for  
 17 Kennebec is because currently there is not an existing  
 18 point of interconnect at that switch; right?  
 19 A Correct.  
 20 Q Have you had any conversations or discussions with  
 21 Qwest on routing traffic as proposed by Western  
 22 Wireless in this proceeding?  
 23 A No.  
 24 Q And in fact, if I understand your summary correctly,  
 25 the only avenue you addressed or did an analysis of is



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1 what is in front of us today?

2 A It was based upon what's in the Interconnection

3 Agreement.

4 Q My understanding from reviewing the materials you've

5 submitted through discovery is that you're projecting

6 24 ports for Western telephone; is that correct?

7 A I would not call what I did to be any sort of estimate

8 for demand. Basically what we were trying to show or

9 what I was trying to show is a causal relationship

10 between some level of demand and the resulting cost.

11 There's certainly no empirical evidence that

12 supports any level of demand. I could have picked

13 zero. I could have picked two. I could have picked

14 five. Basically I was just trying to show a

15 relationship between a specific demand level and what

16 the resulting costs would be.

17 Q If I understand what you're saying is you put some

18 ports in there because that would increase some of the

19 porting costs --

20 A Well, I mean, I suppose I could have put zero but then

21 I would have to ask well, what are we here for.

22 Q Okay. And you have not done any kind of -- frankly the

23 question I have, and that is you haven't done any

24 independent studies as to what the actual demand is in

25 any of these areas; correct?

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1 A Are you asking if I've done it personally? No, I have

2 not done any analysis personally.

3 Q And short of the discussion on the Kennebec, which was

4 done by Telec, done by Ms. --

5 A Vanicek?

6 Q Thank you. Ms. Vanicek. You haven't done any for any

7 of the companies you're testifying on behalf of --

8 A I have not done any empirical analysis.

9 Q Well, Telec hasn't, besides the one --

10 A That's correct.

11 MR. WIECZOREK: I'm going to move

12 for admission of Western Wireless Exhibit 17.

13 MS. POLLMAN ROGERS: Could you just

14 clarify again, was this attached as one of our

15 exhibits to the discovery?

16 MR. WIECZOREK: Exhibit 17 was

17 presented in a CD format represented as the Telec

18 numbers.

19 MS. POLLMAN ROGERS: To our direct

20 testimony?

21 MR. WIECZOREK: No. It was attached

22 to the discovery.

23 MS. POLLMAN ROGERS: Was it in this

24 format?

25 MR. WIECZOREK: Yes. Identical.

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1 MS. POLLMAN ROGERS: I have no

2 objections. Thank you.

3 MR. COIT: No objections.

4 MR. SMITH: Western Wireless 17 is

5 admitted.

6 MR. WIECZOREK: That's all I have.

7 MR. SMITH: Ms. Wiest.

8 CROSS-EXAMINATION

9 BY MS. AILTS WIEST:

10 Q Mr. Davis, could you go to page 3, line 11 of your

11 direct testimony?

12 A Okay. Page 3, line --

13 Q 11. You say, "Many of the RLECs would process LSRs and

14 FOCs through their system manually if LNP would be

15 required to be implemented."

16 A Okay.

17 Q Is that what you assumed for the RLECs in this case,

18 all of them?

19 A Yes.

20 Q Okay. And then if you could go to page 12, line 7,

21 still in your direct.

22 A Okay.

23 Q And above there you're talking about S-O-A or SOA. I

24 believe you stated used the low-cost provider, not the

25 full-scale service bureau. Do you know is the low-cost

1012

1 provider, is that considered to be an automated system?

2 A Not the option that our companies would -- the RLECs

3 that I'm representing would use. No, it would not be

4 an automated process.

5 Q Okay. Thank you. And then just generally talking

6 about your nonrecurring transport charges, is it

7 correct that you took \$700.25 per point of

8 interconnection?

9 A For the nonrecurring costs? Let me verify that that is

10 correct.

11 Q And excluding Midstate.

12 A Okay.

13 Q If you just look at Kennebec or Beresford.

14 A \$700.25 for nonrecurring per DS-1.

15 Q Okay. My question is -- and let's just look at

16 Western. What did you multiply -- you multiplied that

17 times 2; is that correct?

18 A Correct.

19 Q What was that 2 based on?

20 A A DS-1 to each wireless provider.

21 Q So the number you multiply it by is based on the number

22 of wireless providers in the area?

23 A Right. So if the assumption was that there were two

24 wireless providers, we would place a DS-1 to each

25 wireless provider.

1013

- 1 Q Then could you go to Midstate then. Did you also use  
2 the 700 number for that?  
3 A No, I did not.  
4 Q And how did you come up -- did you use 387?  
5 A The 387 was the nonrecurring cost in the NECA tariff as  
6 opposed to NECA tariff and the Qwest tariff.  
7 Q And what was the difference? Why did you use that?  
8 A Well, in the Midstate example they have Western  
9 Wireless and Verizon have direct interconnections.  
10 Q Right.  
11 A And, therefore, the assumption was that the direct  
12 connect would actually not go all the way back to a  
13 rate center such as Sioux Falls. The assumption was  
14 that the DS-1s would actually go back to the point of  
15 interconnection in Kimball or in Platte, wherever the  
16 point of interconnections are.  
17 Q And did you multiply that times 10?  
18 A Yes.  
19 Q And where did you come up with 10? Because you didn't  
20 use wireless carriers for the multiplier then?  
21 A No. That was the number of switches that LNP would be  
22 deployed in.  
23 Q And then how many ports, estimated ports, did you use  
24 for Midstate? Did you use zero?  
25 A Again, as a point of clarification, are you asking what

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- 1 did I use in my cost analysis?  
2 Q Yes.  
3 A Okay. I did not use zero.  
4 Q Okay. What did you use?  
5 A Six per month.  
6 MR. SMITH: I want to make a note on  
7 the record that Commissioner Burg left.  
8 Q You used six per month?  
9 A Yes.  
10 Q Okay. And then could you explain on your Exhibit R-1  
11 for Midstate, if you look under LNP monthly recurring  
12 costs under SOA monthly charge.  
13 A Okay.  
14 Q And then why do you have no numbers there or zero?  
15 A Because Midstate has -- their CLEC has implemented  
16 local number portability.  
17 Q Right.  
18 A They are using an automated SOA, and the assumption was  
19 is that they would continue to use that automated SOA  
20 and that they would not have any incremental monthly  
21 cost.  
22 Q Now when you were talking about how you came up with  
23 the number of ports that you used I believe you stated  
24 it wasn't an estimate for demand. Then how did you  
25 come up with the different numbers for the different

1015

- 1 companies?  
2 A Just basically -- what was it? Basically looked at  
3 size of companies and used different numbers based upon  
4 the size. So it was a function of size.  
5 Q Then did you use a percentage?  
6 A No.  
7 Q At all?  
8 A No. What we did is we said, well, if you're between  
9 zero and 1,000 lines, there would be two ports per  
10 month. You know, between 1,000 and 2,000 we would use  
11 3, and if there were between, you know, like 3 and 4  
12 then there would be 4.  
13 Q That's how you --  
14 A Yeah.  
15 MS. AILTS WIEST: Okay. That's all  
16 I have. Thank you.  
17 MR. SMITH: Commissioner questions  
18 of Mr. Davis? Ms. Rogers.  
19 REDIRECT EXAMINATION  
20 BY MS. POLLMAN ROGERS:  
21 Q I have just a couple of questions with regard to some  
22 of your responses on the switch upgrades. Do I  
23 understand that if, for example, Western Telephone  
24 Company is required by this Commission to implement  
25 LNP, the costs that you have included on R-1 would be

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- 1 what they would have to invest in order to provide LNP  
2 to their customers?  
3 A That is correct.  
4 Q And the same would be true with regard to the other  
5 companies on whose behalf you're testifying?  
6 A That is correct.  
7 Q On your Exhibit R-1 you do have some transport costs  
8 included, and I think you have adequately explained how  
9 the -- the methodology you used to arrive at that.  
10 Whose responsibility in your opinion are the  
11 transport costs?  
12 A The RLECs contend that it is not the responsibility of  
13 the RLECs to route traffic outside of their exchange  
14 area.  
15 Q So that would be the responsibility then of the  
16 wireless carrier?  
17 A That would be correct.  
18 Q Okay. At the time that you prepared your cost  
19 estimates did you have any reason to investigate beyond  
20 the existing contractual relationships between the  
21 parties?  
22 A I did not. I mean, I had a legal document in front of  
23 me, and my assumption was is that I was going to work  
24 off the routing arrangements that were specified to in  
25 the Interconnection Agreement that the RLECs negotiated

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1 with Western Wireless.  
 2 MS. POLLMAN ROGERS: Thank you.  
 3 That's all.  
 4 MR. SMITH: Mr. Wieczorek?  
 5 MR. WIECZOREK: I have nothing  
 6 further.  
 7 MR. SMITH: Ms. Wiest?  
 8 MS. AILTS WIEST: No.  
 9 MR. SMITH: Any Commissioner  
 10 questions?  
 11 I think the witness is excused. Thank you,  
 12 Mr. Davis.  
 13 THE WITNESS: Thank you very much.  
 14 MR. SMITH: Do the Petitioners have  
 15 any additional witnesses relative to the Dockets on  
 16 today's agenda?  
 17 MS. POLLMAN ROGERS: We have no  
 18 additional witnesses. We would have Pam Harrington  
 19 to call later as soon as she arrives if the  
 20 Commission would like to proceed with that case  
 21 today.  
 22 MR. SMITH: Okay. Mr. Coit, are you  
 23 calling a witness?  
 24 MR. COIT: No.  
 25 MR. SMITH: Mr. Wieczorek?

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1 MR. WIECZOREK: At this time we'd be  
 2 willing -- we would call Mr. Williams to address  
 3 the general testimony of Mr. Davis and the  
 4 cost-specific testimony of all the companies he's  
 5 testifying on behalf of except for RC or Roberts  
 6 County.  
 7 I would ask the indulgence of the Commission  
 8 to take a quick break before we begin his  
 9 testimony.  
 10 MR. SMITH: Sounds great to me.  
 11 CHAIRMAN SAHR: Fifteen.  
 12 MR. SMITH: We're in recess for 15  
 13 minutes.  
 14 (A short recess is taken)  
 15 MR. SMITH: Commissioner Burg is  
 16 still not in the room. He had a conference call he  
 17 had to participate in on his NARUC electric  
 18 committee, but we're going to begin without him.  
 19 Mr. Wieczorek, we were going to take  
 20 Mr. Williams' testimony responsive to Mr. Davis and  
 21 the companies that are at issue today.  
 22 MS. ROGERS: You may begin.  
 23 MR. WIECZOREK: Thank you,  
 24 Mr. Smith, Commissioners.  
 25 (Exhibit WWC 18 is marked for identification)

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DIRECT EXAMINATION

1 BY MR. WIECZOREK:  
 2 Q Mr. Williams, you've been previously sworn and  
 3 previously testified and had admitted into the record  
 4 your testimony filed in this matter; correct?  
 5 A Correct.  
 6 Q As you've done previously, have you done a  
 7 sheet-by-sheet comparison of the costs submitted by the  
 8 various companies in this matter in Western Wireless's  
 9 projections?  
 10 A Yes, I have. This is identical in format to what I  
 11 presented as responsive to Mr. Bullock's methodology,  
 12 as Mr. Davis and Mr. Bullock used identical methods to  
 13 develop their costs.  
 14 Q Okay. And that's been marked as Western Wireless  
 15 Exhibit 18?  
 16 A Correct.  
 17 Q And as you did with Mr. Bullock, it contains a couple  
 18 of handwritten changes so first, which appear first on  
 19 the Kennebec, why don't you just explain those  
 20 handwritten changes and note them for the record.  
 21 A Yes. On the Kennebec cost exhibit I have modified the  
 22 switch upgrade costs based on the discussion from  
 23 earlier this morning regarding switched upgrade costs  
 24 unrelated to LNP. I believe those costs were related  
 25

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1 to the generic switch upgrade.  
 2 And so I've deducted that from the switch  
 3 upgrade cost line item and shown the adjusted values on  
 4 an estimated LNP cost per month at the bottom of the  
 5 page for Western's estimates.  
 6 Q Okay. And the next page is Midstate. Did you also  
 7 make a hand revision on that? If so, could you explain  
 8 where they appear and why you put that?  
 9 A Yes. On the Midstate switch upgrade costs my  
 10 understanding is that the SR-10 software maintenance  
 11 package would include LNP. And so I've adjusted an  
 12 approximate amount out that included the LNP software  
 13 upgrade and the installation associated with that  
 14 software and left pretty much the switch translation  
 15 costs in for Midstate.  
 16 In addition, because Midstate has identified  
 17 that they already have direct connects with the two  
 18 wireless carriers that service in the area, it would be  
 19 Western's position that there would not be a need for  
 20 any additional transport that the existing facilities  
 21 could be used for the routing of ported numbers so  
 22 you'll see strikes through the transport costs and  
 23 Western's estimates and again a revised estimated cost  
 24 per month at the bottom of the page.  
 25 Q Finally, on the last page, which is Western Wireless,

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1 while you don't have a handwritten exchange you do have  
 2 some blocked in red and could you just explain what  
 3 that signifies?  
 4 A Yeah. I did not have the cost detail with me when I  
 5 did this yesterday. I remembered the nonLNP-related  
 6 switch upgrade costs and the costs of installing that  
 7 to approximate about \$100,000, and the red reflects a  
 8 \$100,000 adjustment from the Petitioner estimates.  
 9 The actual switch upgrade costs that aren't  
 10 directly related to LNP appear to be approximately  
 11 \$93,000. So there is a variance here, and this 45,000  
 12 would be understated by about \$7,000.  
 13 MR. WIECZOREK: With those points of  
 14 clarification on the handwritten changes I'd move  
 15 for the admission of Western Wireless 18.  
 16 MS. POLLMAN ROGERS: No objection.  
 17 MS. AILTS WIEST: No objection.  
 18 MR. COIT: No objection.  
 19 MR. SMITH: Western Wireless 18 is  
 20 admitted.  
 21 MR. WIECZOREK: And I would make the  
 22 witness available for cross-examination.  
 23 MR. SMITH: Okay. I thought we were  
 24 already underway. Please proceed.  
 25 MS. POLLMAN ROGERS: Thank you.

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CROSS-EXAMINATION

1 BY MS. POLLMAN ROGERS:  
 2  
 3 Q Mr. Williams, I have just a few questions with regard  
 4 to your Western Wireless Exhibit No. 18. Let's look  
 5 first of all at Beresford. Do I understand that with  
 6 regard to the nonrecurring costs, switch upgrades,  
 7 those types of things, the only revision that you've  
 8 made is on the other internal costs; is that correct?  
 9 A Yes.  
 10 Q The only revision to Petitioner's exhibit.  
 11 A Correct.  
 12 Q And, again, that is not based on actual costs to the  
 13 company; is that correct?  
 14 A Based on an estimated ceiling of other internal costs.  
 15 Q So it's not based on the actual costs of the company?  
 16 A This would be Western's perspective of what the maximum  
 17 amount would be for other internal costs for companies  
 18 of this size.  
 19 Q Okay. My question was is it based on Beresford's  
 20 company-specific costs? And I understand your response  
 21 to be no; is that correct?  
 22 A It is not developed from Beresford's internal  
 23 structure, correct.  
 24 Q Thank you. The next yellow line here on Beresford is a  
 25 revision to the nonrecurring transport charges. I am

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1 assuming that that is based on your change in the  
 2 estimated number of ports?  
 3 A Actually, that 700 reflects Mr. Davis's estimated  
 4 nonrecurring costs for a single DS-1. And the  
 5 difference in theory here is that Mr. Davis assumed one  
 6 DS-1 per wireless carrier.  
 7 Q You just assumed it for one?  
 8 A One common DS-1 for any wireless carriers, given this  
 9 volume of traffic.  
 10 Q So you included in your revised estimate, which is the  
 11 one on the far right, the cost of installing one DS-1  
 12 or the cost of one DS-1?  
 13 A This was in essence the cost equivalent -- Mr. Davis's  
 14 cost number for upgrading -- and I applied that to the  
 15 upgrade of the existing based on our assumption, the  
 16 existing Qwest trunk group. But I used Mr. Davis's  
 17 nonrecurring costs for that DS-1 for this company.  
 18 Q And then -- well, it's a pretty minuscule change on the  
 19 transport?  
 20 A I'm sorry. Which transport?  
 21 Q Just it's the line entitled transport.  
 22 A That is a volume related based on the difference in  
 23 port volume.  
 24 Q Okay. And how did you estimate your port volume?  
 25 A In the same manner we did for the other companies. We

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1 took an estimate based on Western's belief of the  
 2 volume of port activity it would see from these  
 3 companies, and then we divided that number by what we  
 4 believe our market share to be to get a total  
 5 intermodal porting estimate.  
 6 Q You would agree with me that as you and I sit here  
 7 today, we don't know how many ports there would be in  
 8 any of these exchanges, would you not?  
 9 A All we can do is use our best estimates.  
 10 Q It's an estimate, right. Let's go to Kennebec. You  
 11 explained in response to Mr. Wiecezorek that you did  
 12 make a change to your switch upgrade costs. Am I to  
 13 understand then that what you have included for  
 14 Kennebec on Western Wireless 18 would be the cost for  
 15 LNP switch upgrade?  
 16 A Referring to Exhibit 16, what I did was take the  
 17 Petitioner estimated 47,979, and I subtracted the  
 18 generic host upgrade of 31,400. I did not further  
 19 reduce it by the installation or the prorate of  
 20 coverage costs which Mr. Davis indicated would also be  
 21 related to the switch upgrade generic.  
 22 Q You're not saying, however, that Kennebec can implement  
 23 LNP for \$16,579, are you?  
 24 A No. What I'm suggesting is that the generic upgrade  
 25 was normally considered part of ongoing switch

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1 operations, maintenance investments, and includes other  
 2 features and capability sets unrelated to LNP and,  
 3 therefore, shouldn't be included when one's trying to  
 4 estimate the cost of what LNP costs for a company.  
 5 **Q** You don't disagree with the testimony presented that  
 6 the platform or the generic level for Kennebec would  
 7 need to include this cost of upgrading the host office  
 8 of \$31,400. You don't disagree with that, do you?  
 9 **A** I do not dispute that the generic may need to be  
 10 upgraded to support LNP.  
 11 **Q** And that would certainly be a cost to the company of  
 12 Kennebec, would it not?  
 13 **A** Well, it should be a regular recurring cost for the  
 14 company to maintain their switches at the most current  
 15 release.  
 16 **Q** We're not engaged in an LNP surcharge hearing here, are  
 17 we?  
 18 **A** I think what we're engaged in is trying to determine  
 19 what the impact of LNP would be on these companies.  
 20 **Q** And in order to implement LNP the company of Kennebec  
 21 would have to expend \$47,979; isn't that correct?  
 22 **A** That's correct. I would contend they probably --  
 23 **Q** I thank you very much. You've answered my question.  
 24 That's what it would cost the company which is what  
 25 we're considering here; correct?

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1 **A** That's the outlay they would have to make to get their  
 2 generics up to level to support LNP software.  
 3 **Q** And the 15,000 on the other internal costs that you're  
 4 using the same approach as you did on the other ones,  
 5 in your other exhibits?  
 6 **A** Correct.  
 7 **Q** Did you hear Mr. Davis explain this morning that his  
 8 estimated port volumes were merely to demonstrate the  
 9 relationship between the ports and the costs?  
 10 **A** I did.  
 11 **Q** And he further testified that the ports he estimated  
 12 did not represent actual estimated demand, didn't he?  
 13 **A** That's what he said.  
 14 **Q** Let's talk about Midstate. I'm, unfortunately, having  
 15 a hard time understanding exactly how you modified the  
 16 switch upgrade costs here.  
 17 But I would go back to the questions I asked  
 18 with regard to Kennebec. You're not disputing that it  
 19 would cost Midstate \$68,160 to implement LNP in the  
 20 rest of its exchanges, are you?  
 21 **A** Well, this is a slightly different situation than  
 22 Kennebec. It appears from the documentation that  
 23 Midstate has a special maintenance package through  
 24 Nortel that accounts for the generic upgrades as well  
 25 as, I believe, implementation of number portability.

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1 And so it is fundamentally a different cost  
 2 structure than what's been proposed for Kennebec.  
 3 **Q** You don't know that to be the case, though, do you?  
 4 **A** Well, it is my understanding that SR-10 includes  
 5 generic as well as LNP upgrade maintenance.  
 6 **Q** So if the technician from Midstate would say that he is  
 7 unsure of that, just hypothetically, you would disagree  
 8 with him, or you know something that he does not?  
 9 **A** I'm just stating what my understanding is.  
 10 **Q** And do I understand that you did leave in the switch  
 11 translation?  
 12 **A** Yes. This covers -- the 25,000 was really an estimate  
 13 of switch translation activity that would still need to  
 14 occur on this switch, which is over and above, you  
 15 know, the Nortel software.  
 16 **Q** So you dispute Mr. Davis's estimation or calculation of  
 17 the switch translation costs?  
 18 **A** I think he gave a range of 2,000 to 5,000 per switch,  
 19 and this is closer to the 2,000 level.  
 20 **Q** And so again, you're not sitting here contending that  
 21 Midstate could implement LNP for \$25,000, are you?  
 22 **A** Yes. For what it needs to do with its switches, that's  
 23 correct.  
 24 **Q** So they could just take \$25,000 and go out and upgrade  
 25 their switch and they're good to go? Is that your

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1 testimony?  
 2 **A** Based on my understanding of the software maintenance  
 3 arrangement they have with Nortel, I believe that to be  
 4 the case.  
 5 **Q** With regard to Western Telephone Company, I would pose  
 6 the same question. You're not contending that they  
 7 could provide LNP to their customers if ordered to do  
 8 so by this Commission for \$45,987, are you?  
 9 **A** No. Western's situation is similar to the Kennebec  
 10 situation that we discussed.  
 11 **Q** So you're not contending that, that they could  
 12 implement LNP if ordered to do so by this Commission  
 13 for \$45,987?  
 14 **A** I would not contend -- I would not disagree that they  
 15 would need to get their switch generics upgraded to  
 16 support LNP implementation.  
 17 **Q** And that would be a cost to Western Telephone Company;  
 18 is that correct?  
 19 **A** That's correct.  
 20 **Q** In earlier --  
 21 MR. SMITH: I'm going to note for  
 22 the record that Commissioner Burg is back in the  
 23 room.  
 24 **Q** In earlier testimony in front of this Commission you  
 25 did not dispute that Western Wireless should receive an

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1 additional suspension of LNP requirement; is that  
 2 correct?  
 3 A You mean to say Western Telephone?  
 4 Q I'm sorry. Yes, I do. Too many Westerns. Western  
 5 Telephone Company. Thank you.  
 6 A Subject to check, I believe it might have been --  
 7 MR. WIECZOREK: I don't think so.  
 8 THE WITNESS: No?  
 9 A I would have to go back and check who I offered as a  
 10 potential distinguishing carrier. I know at the time I  
 11 mentioned that there was a lot of uncertainty about  
 12 Western's switch costs, Western Telephone's switch  
 13 costs.  
 14 Q There was uncertainty at that time or just in your mind  
 15 there was?  
 16 A Well, there was uncertainty in my mind at that point in  
 17 time.  
 18 Q Because there wasn't any evidence presented in the  
 19 record, was there, at that time with regard to Western  
 20 other than the submitted documents?  
 21 A Correct.  
 22 Q Again, just to go back to Midstate for a minute, and as  
 23 you can tell, I'm kind of struggling to track with you  
 24 with regard to your revisions to that estimate. You  
 25 talked about a generic switch upgrade for Midstate's

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1 SR-10 switch?  
 2 A No. Actually, as I understand it, Midstate does not  
 3 require a generic upgrade for their switches. The  
 4 issue with Midstate is that they have a -- I'll call it  
 5 an enhanced maintenance package that they have acquired  
 6 through Nortel that in a general sense is intended to  
 7 keep their switches at the most current maintenance  
 8 level that Nortel offers.  
 9 MS. POLLMAN ROGERS: That's all the  
 10 questions I have. Thank you.  
 11 MR. SMITH: Mr. Coit, do you have  
 12 questions?  
 13 MR. COIT: No.  
 14 MR. SMITH: Ms. Wiest?  
 15 MS. AILTS WIEST: No.  
 16 MR. SMITH: Commissioners, do you  
 17 have any questions of Mr. Williams?  
 18 COMMISSIONER BURG: I have one even  
 19 though I'm sorry I missed some of the testimony.  
 20 This is a little more of a general one.  
 21 I understood from Mr. Davis's testimony that  
 22 the numbers he used for probable porting, and  
 23 that's what I would call it, probable porting, had  
 24 no scientific basis, they were only used for  
 25 illustrative purposes. Do you agree with that? Is

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1 that what you heard him say?  
 2 THE WITNESS: No reason to dispute  
 3 Mr. Davis's --  
 4 COMMISSIONER BURG: So then I'm  
 5 questioning on yours, how did you arrive at the  
 6 number you thought would be ported? Was there a  
 7 scientific approach to determining how many you're  
 8 estimating would be ported?  
 9 THE WITNESS: Well, our approach was  
 10 based upon our estimates of the circumstances for  
 11 these companies based on what we thought we would  
 12 be able to obtain as a result of both our coverage  
 13 and our view of what their demographics  
 14 represented. And the numbers are close to what we  
 15 expect -- for most of these companies close to what  
 16 we expect in our rural operating areas, which is an  
 17 approximate 15 percent intermodal porting over a  
 18 five-year period.  
 19 COMMISSIONER BURG: But is that  
 20 based on experience you've had in other areas where  
 21 LNP is in place or how are you --  
 22 THE WITNESS: There is no experience  
 23 in intermodal porting to speak of in rural service  
 24 areas at this time. I mean, we've only been at it  
 25 in a partial way for about a month.

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1 COMMISSIONER BURG: Have you been  
 2 involved in any urban areas, nonrural areas?  
 3 THE WITNESS: Western Wireless  
 4 really doesn't operate in urban areas. We have  
 5 like a 2 percent overlap in nonrural or MSA areas.  
 6 COMMISSIONER BURG: Did you look at  
 7 what any other companies that do operate in urban  
 8 areas, what kind of take that they had?  
 9 THE WITNESS: Well, we looked at the  
 10 kind of impacts that competition and number  
 11 portability if facilitated from CLEC experiences,  
 12 and those included both a review of urban areas as  
 13 well as a review of competition in selected rural  
 14 areas where it has occurred.  
 15 COMMISSIONER BURG: I guess I'm  
 16 asking it because we've gone all the way from  
 17 almost zero take that companies have experienced  
 18 since the knowledge is out there that LNP is either  
 19 in place or going to be in place to an illustrative  
 20 number that their own consultant has used to a much  
 21 higher number that you've used. And I'm trying to  
 22 kind of figure out how we can get to that number.  
 23 Because to me when we get down to this  
 24 decision it's going to be how many people are going  
 25 to benefit compared to these costs that are asked

1033

1 to be imposed. And right now I'm not real  
 2 comfortable with the numbers that we're seeing with  
 3 the beneficiaries.  
 4 THE WITNESS: Well, you know, the  
 5 most significant track record that has been built  
 6 on number portability has been built on, you know,  
 7 a wireline-to-wireline portability because that's  
 8 the one that's been in place for the longest amount  
 9 of time.  
 10 And I think that would be -- that results in  
 11 somewhere between 3 and a half to 4 and a half  
 12 percent erosion on an annual basis. Now we know  
 13 that there were lots of problems in starting up  
 14 that process, and it took a while to get things  
 15 going, but, you know, we have the benefit today of  
 16 a seven- or eight-year retrospective that resulted  
 17 in an average annual migration, you know, of 3 and  
 18 a half to 4 and a half percent.  
 19 And, you know, that is the one experience that  
 20 we have sufficient statistics to provide an  
 21 indicator for what we expect to happen in the face  
 22 of competition in rural areas.  
 23 COMMISSIONER BURG: Do you think the  
 24 experience in wireline to wireline is comparable to  
 25 what you'll see in wireline to wireless?

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1 THE WITNESS: We're expecting it to  
 2 be not quite as aggressive.  
 3 COMMISSIONER BURG: I mean, I think  
 4 there's two things that come into play. One is a  
 5 lot of people, even though they're taking wireless,  
 6 are not giving up their wireline so of course  
 7 they're not going to port that number. And,  
 8 secondly, as I said to Mr. Davis, I think it was,  
 9 or one of the other witnesses, is I've been  
 10 surprised somewhat to me and the people that really  
 11 have a problem with having published phone numbers.  
 12 If you had a ported number, that's already  
 13 published. So you wouldn't have the anonymity that  
 14 people seem to want with their cellphones.  
 15 THE WITNESS: Yeah. The issue of  
 16 directory listings is currently being fought out at  
 17 the national level. I know there's a proposal by  
 18 publishers to create directory listings for  
 19 cellphones and I know the cellular phone industry  
 20 is resistant to that proposal. But I don't know  
 21 that either the proposal or the wireless industry's  
 22 resistance to it has much relevance to number  
 23 portability.  
 24 COMMISSIONER BURG: But if you were  
 25 porting a number you already have a listed phone

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1 number immediately; right?  
 2 CHAIRMAN SAHR: Unless it's  
 3 unlisted.  
 4 COMMISSIONER BURG: Yeah. Unless  
 5 you took the position --  
 6 THE WITNESS: Every customer today  
 7 has the choice to list or not list their phone.  
 8 COMMISSIONER BURG: What percent,  
 9 probably 90 plus are listed at least in rural  
 10 areas?  
 11 THE WITNESS: It varies dramatically  
 12 from state to state. In California the listing  
 13 percentages are very low and in other states it's  
 14 very high.  
 15 COMMISSIONER BURG: Okay. Thank  
 16 you.  
 17 MR. SMITH: Other Commissioner  
 18 questions?  
 19 Ms. Rogers, do you have any recross? Did I  
 20 ignore -- did I skip over Talbot? I'm sorry. I've  
 21 got my rotation around the table out of order here.  
 22 MR. WIECZOREK: I'm sorry,  
 23 Mr. Smith.  
 24 REDIRECT EXAMINATION  
 25 BY MR. WIECZOREK:

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1 Q Mr. Williams, there's a statement attributed to you,  
 2 something about phantom traffic. Do you perceive some  
 3 type of phantom traffic issue?  
 4 A I don't believe that there's any phantom traffic issue  
 5 in the proposed routing mechanism that Western used. I  
 6 am aware of the phantom traffic issue with respect to  
 7 traffic terminating to the telephone companies, but our  
 8 routing proposal here really addresses traffic that  
 9 would be originating from the telephone companies. And  
 10 I think Mr. Smith characterized it appropriately in his  
 11 questions earlier today.  
 12 MR. WIECZOREK: I don't have  
 13 anything further.  
 14 MR. SMITH: Ms. Rogers?  
 15 MS. POLLMAN ROGERS: I have no  
 16 further questions of this witness. I would in  
 17 response to some of the questions asked by  
 18 Commissioner Burg make available for the Commission  
 19 if they should desire the results of the survey  
 20 that Kennebec Telephone Company did in their area,  
 21 if you so request.  
 22 MR. WIECZOREK: I will tell you I've  
 23 never seen it. It was never produced to me.  
 24 MR. SMITH: I think in order to do  
 25 that it should be marked and we'll have a

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1 discussion over whether it's a proper exhibit for  
 2 admission. Otherwise, we have his --  
 3 MS. POLLMAN ROGERS: His  
 4 testimony --  
 5 MR. SMITH: -- his testimony about  
 6 it. But that's up to you. If you want to mark it  
 7 and we'll go through that --  
 8 MS. POLLMAN ROGERS: Why don't --  
 9 let me think about that a little bit. I would like  
 10 to call Mr. Davis back in surrebuttal with regard  
 11 to the costs that were --  
 12 MR. SMITH: Mr. Williams, I think  
 13 you're excused then. Thank you for your testimony.  
 14 MS. POLLMAN ROGERS: Mr. Davis, I  
 15 would remind you that you are still under oath.  
 16 THE WITNESS: Okay.  
 17 DIRECT EXAMINATION  
 18 BY MS. POLLMAN ROGERS:  
 19 **Q** You are familiar with or at least have seen briefly  
 20 Western Wireless Exhibit No. 18?  
 21 **A** Yes, I have.  
 22 **Q** With regard to the revisions made to the switch upgrade  
 23 costs, first of all, for the companies of Kennebec and  
 24 Western Telephone Company you would not agree with  
 25 those revisions, would you?

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1 **A** I do not agree with these revisions. I mean, the  
 2 standard that we're talking about here today is an F2  
 3 standard and it's what is the impact on the end-user.  
 4 In order for Western Telephone Company in Kennebec to  
 5 implement local number portability, they will, in fact,  
 6 have to incur the generic upgrade cost, and I believe  
 7 that that would create a burden on the end-user.  
 8 **Q** Now let's look at Midstate. And do you agree with the  
 9 revisions Mr. Williams has made to the switch upgrade  
 10 costs in the Midstate -- in the case of Midstate?  
 11 **A** No. I think there's some disagreement with respect to  
 12 the switch translations costs. The e-mail that we  
 13 looked at earlier, I don't know if that was entered  
 14 into as an exhibit but it referred to one number that  
 15 was \$29,000 approximately. That is for the actual  
 16 Nortel -- I mean, that's what Nortel would charge  
 17 Midstate on a per-equipped-line basis for the LNP  
 18 software.  
 19 There was an additional charge on that same  
 20 e-mail. I believe they referenced the Martin Group for  
 21 switch translations, and I think Mr. Williams said that  
 22 that cost would be between 2,000 and \$5,000. I thought  
 23 he said he used \$2,000. If you look at that number,  
 24 the 2 to \$5,000 range, what we did was we used \$4,000  
 25 per switch for switch translations.

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1 Switch translations is a function that is  
 2 separate and apart from the Nortel pricing on the  
 3 per-equipped-line basis and that is actually a price  
 4 that the Martin Group would charge Midstate on a  
 5 per-switch basis for switch translations. It's not  
 6 part of that activation fee that is waived.  
 7 **Q** So based upon that, you would stay with your -- the  
 8 switch upgrade costs that you included in your --  
 9 **A** Based upon the information on that e-mail, I would take  
 10 the \$29,000 and add back the \$4,000 per switch for  
 11 switch translations. So it would be approximately 29  
 12 plus 36,000.  
 13 **Q** The internal business -- or other internal costs  
 14 categories, what did you base your figures upon?  
 15 **A** The actual nonrecurring other internal costs category?  
 16 **Q** Right.  
 17 **A** I included costs associated with negotiating,  
 18 finalizing, and processing porting contracts. The  
 19 other cost information that was in there was completing  
 20 the trading partner profiles. There were costs  
 21 associated with filing tariffs, costs associated with  
 22 reviewing impact contracts, SOA contracts, costs  
 23 associated with reviewing and researching the impact of  
 24 the order.  
 25 **Q** But you included company-specific costs to calculate

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1 that amount for each company?  
 2 **A** Yes.  
 3 MS. POLLMAN ROGERS: If I could have  
 4 one moment.  
 5 (Pause)  
 6 **Q** Once again drawing your attention to Midstate, does  
 7 Nortel provide LNP as part of the SR-10 upgrade that  
 8 Mr. Williams has adjusted?  
 9 **A** The SR-10 program is a maintenance program, and the --  
 10 basically what you get if you have the SR-10 program  
 11 is Nortel does not charge this activation fee. You  
 12 still have to purchase the LNP software, which is the  
 13 \$4 per equipped line, and you still have to perform  
 14 switch translations.  
 15 **Q** And I believe you testified earlier that you did not  
 16 include the activation fee in your estimates?  
 17 **A** I did not include the activation fee.  
 18 **Q** Thank you.  
 19 MS. POLLMAN ROGERS: That's all.  
 20 MR. SMITH: Mr. Coit, do you have  
 21 anything?  
 22 MR. COIT: No.  
 23 MR. SMITH: Mr. Wieczorek?  
 24 MR. WIECZOREK: I have none.  
 25 MS. AILTS WIEST: None.



1041

1 MR. SMITH: Commissioners? Can I  
 2 ask one clarifying question.  
 3 If I understood, you said your number, take  
 4 29,000 plus 36,000?  
 5 THE WITNESS: Correct.  
 6 MR. SMITH: So does that mean the  
 7 \$68,000 number should be changed, or is there  
 8 something else in there or is that what it adds up  
 9 to?  
 10 THE WITNESS: What number did you  
 11 come up with?  
 12 MR. SMITH: 65,000. Or is that just  
 13 a rounding issue?  
 14 THE WITNESS: I believe it's awfully  
 15 close to that number. 65,000 would be correct.  
 16 MR. SMITH: Thank you. Further  
 17 questions?  
 18 MS. POLLMAN ROGERS: No.  
 19 MR. SMITH: You're excused,  
 20 Mr. Davis.  
 21 Do you have anything further at this time,  
 22 Petitioners?  
 23 MS. POLLMAN ROGERS: Not with regard  
 24 to these Petitioners, no.  
 25 MR. SMITH: I think maybe we're --

1042

1 are we done for now then? Let's go off the record.  
 2 (Proceedings are in recess)  
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1043

1 MR. SMITH: The hearing in the LNP  
 2 is reconvened, the hearing in the LNP suspension  
 3 Dockets is reconvened. Today is Wednesday,  
 4 June 30, at approximately 8:30 a.m., and this is  
 5 the -- in Room 113 of the Capitol and this is the  
 6 time and place that has been scheduled for  
 7 TC04-056, RC Communications, Inc. and Roberts  
 8 County Telephone Cooperative Association and  
 9 TC04-085, Cheyenne River Sioux Tribe Telephone  
 10 Authority.  
 11 Mr. Dickens, I presume you're handling things  
 12 for the Petitioners this morning?  
 13 MR. DICKENS: Yes.  
 14 MR. SMITH: You may proceed.  
 15 MR. DICKENS: Thank you. We would  
 16 call Ms. Pamela Harrington to the stand on behalf  
 17 of RC Communications, Inc. and Roberts County  
 18 Telephone Cooperative Association.  
 19 (Exhibits RC 1 through 3 are marked for identification)  
 20 PAMELA HARRINGTON,  
 21 called as a witness, being first duly sworn in the  
 22 above cause, testified under oath as follows:  
 23 DIRECT EXAMINATION  
 24 BY MR. DICKENS:  
 25 Q Ms. Harrington, would you state your name and address

1044

1 for the record, please.  
 2 A Pamela Harrington, general manager of Roberts County  
 3 Telephone Cooperative Association and RC  
 4 Communications, Incorporated, 205 Main Street,  
 5 New Effington, South Dakota 57255.  
 6 Q And you're appearing today on behalf of RC  
 7 Communications, Inc. and Roberts County Telephone; is  
 8 that correct?  
 9 A Yes, I am.  
 10 Q You have before you, Ms. Harrington, two pieces of  
 11 prefiled testimony labeled Exhibits 1 and 2. Do these  
 12 appear to be your direct and rebuttal on this matter?  
 13 A Yes. Yes, they do.  
 14 Q Is this testimony true and correct to the best of your  
 15 knowledge?  
 16 A Yes, it is.  
 17 Q And do you have any additions or corrections today?  
 18 A No, I don't.  
 19 Q If I were to ask you the same questions as are  
 20 contained in your prefiled testimony today, would your  
 21 answers be the same?  
 22 A Yes, they would.  
 23 Q Do you have a summary prepared of your testimony?  
 24 A Basically what the testimony states is that we have had  
 25 no requests or demand for local number portability in

1045

1 our areas, and the cost of implementing it is  
 2 significant and we feel that would be a detriment to  
 3 our customers.  
 4 **Q** Does that conclude your summary?  
 5 **A** Yes, it does.  
 6 MS. POLLMAN ROGERS: I'd like to  
 7 move Roberts County and RC Communications Exhibits  
 8 1 and 2 into evidence at this time.  
 9 MR. LEWIS: No objections.  
 10 MS. AILTS WIEST: No objections.  
 11 MR. COIT: No objections.  
 12 MR. DICKENS: We would tender  
 13 Ms. Harrington for cross-examination.  
 14 MR. SMITH: Are they just labeled RC  
 15 1 and 2 or --  
 16 MR. DICKENS: Well, I think for the  
 17 purposes of speed we labeled them RC 1 and 2.  
 18 MR. SMITH: Okay. RC 1 and 2 are  
 19 admitted.  
 20 MR. LEWIS: Good morning, members of  
 21 the Commission, counsel.  
 22 CROSS-EXAMINATION  
 23 BY MR. LEWIS:  
 24 **Q** And good morning to you, Ms. Harrington.  
 25 **A** Good morning.

1046

1 **Q** My name is Paul Lewis and I represent Western Wireless  
 2 in this local number portability Docket. I have  
 3 several questions for you this morning.  
 4 **A** Okay.  
 5 **Q** Ma'am, you understand that in 1996 number portability  
 6 became a requirement by the FCC?  
 7 **A** Yes.  
 8 **Q** And then by their continuing Order dated November 10 of  
 9 2003 the FCC ordered compliance for your company unless  
 10 you have an exemption in place; correct?  
 11 **A** Right.  
 12 **Q** You stated in your rebuttal testimony on page 1 that  
 13 once the FCC made it clear that wireless carriers would  
 14 be required to port numbers Roberts County took  
 15 immediate steps to investigate the cost and process  
 16 involved with LNP. Is that true?  
 17 **A** Yes, it is.  
 18 **Q** But in investigating your LNP implementation options  
 19 did you ever contact Western Wireless to see what kind  
 20 of cost-efficient options would be available to you?  
 21 **A** No, I didn't.  
 22 **Q** In your opening you had mentioned that the cost of  
 23 implementation of local number portability is  
 24 significant; true?  
 25 **A** Right.

1047

1 **Q** You also understand, though, that federal law -- or FCC  
 2 regulations allow you to recover some of those costs  
 3 through surcharges to implement local number  
 4 portability?  
 5 **A** Yes.  
 6 **Q** Now the numbers that you filed before the Commission  
 7 were basically compiled by your cost analyst,  
 8 Mr. Davis; correct?  
 9 **A** Right.  
 10 **Q** And you relied upon those numbers?  
 11 **A** Yes, I did.  
 12 **Q** And do you understand the methodology that was used by  
 13 your cost analyst in compiling those numbers?  
 14 **A** I would just like to defer that to my cost analyst.  
 15 **Q** Do you understand the basic mechanics of it, though?  
 16 **A** Yes.  
 17 **Q** Okay. On page 2 of your direct testimony you state  
 18 that there's been no requests for local number  
 19 portability; is that correct?  
 20 **A** That is correct.  
 21 **Q** Did you know that your cost analyst estimated at least  
 22 36 ports per year when he came up with your numbers?  
 23 **A** I have read through the costs so I would assume that,  
 24 yes, I would have seen that, but if you were to ask me  
 25 any specific question, I can't answer that without

1048

1 looking at it.  
 2 **Q** Okay.  
 3 **A** Okay.  
 4 **Q** Would it surprise you then to know that over the next  
 5 five years you're going to lose approximately 8 percent  
 6 of your wireline-to-wireless porting?  
 7 **A** That would surprise me, yes.  
 8 **Q** Have any wireless carriers requested LNP service from  
 9 you?  
 10 **A** Yes.  
 11 **Q** And who?  
 12 **A** Western Wireless.  
 13 **Q** Thank you. Do you have any demographic information to  
 14 present today to the Commission concerning your  
 15 customer base?  
 16 **A** I have no specific demographic information. However, I  
 17 do know my customers very well.  
 18 **Q** Have you done any independent internal surveys as part  
 19 of your company to see what your customers would be  
 20 willing to pay or would be willing to go for the  
 21 implementation?  
 22 **A** No, I haven't.  
 23 **Q** On page 1 of your direct testimony it's noted that you  
 24 have extended area service; is that correct?  
 25 **A** Yes.

1049

1 Q To what communities do those go to?

2 A In the one company, the cooperative, we have EAS into

3 Sisseton, Roscoe, from New Effington, and then from our

4 other exchange, Claire City, we have EAS in Sisseton

5 and Veblen. And then in RC Communications we have EAS

6 from Wilmot and Summit both into Milbank.

7 Q So EAS services essentially take a local call outside

8 your exchange area, do they not?

9 A We meet carriers at the exchange boundary.

10 Q But it's not a toll call?

11 A Right.

12 Q Beyond the exchange boundary?

13 A Uh-huh.

14 Q And that's driven by customer demand, would you agree?

15 A It's been that way ever since I started working there

16 20-some years. So I can't testify to if it was

17 customer demand or whatever.

18 Q But you do provide that service --

19 A Yes, we do.

20 Q And your customers enjoy that service?

21 A Yes.

22 Q Would you agree today that LNP is technically feasible?

23 A With the proper upgrades, yes.

24 Q So if the Commission required you to implement local

25 number portability, you would have the ability to pay

1050

1 for it, would you not?

2 A Of course we would. We'd have to add it to the

3 customer bill.

4 MR. LEWIS: Thank you. No further

5 questions.

6 MR. SMITH: Ms. Wiest?

7 CROSS-EXAMINATION

8 BY MS. AILTS WIEST:

9 Q Ms. Harrington, what is your current local rate?

10 A In the cooperative it's 10.50 for residential and 13

11 for business, and in RC Communications it is 15.70

12 residential and 26 business.

13 Q And in your testimony you stated that currently four

14 wireless carriers have the authority to serve your

15 area. Could you state which carriers those are?

16 A Are you talking as an ETC?

17 Q Wireless carriers.

18 A Oh, just in general providing services?

19 Q Yeah.

20 A I'm sorry, what was your question?

21 Q You stated in your testimony to the best of your

22 knowledge there are four wireless carriers authorized

23 to serve.

24 A Okay.

25 Q Can you name those four?

1051

1 A Western Wireless, Rural Cellular Corporation. I guess

2 that's the only two I can think of.

3 Q And so you don't know which ones -- you don't know the

4 other two that have the authority?

5 A I'm just a blank on that at the moment.

6 Q Okay. And to your knowledge those two carriers are

7 currently serving your area?

8 A Yes.

9 MS. AILTS WIEST: That's all I have.

10 Thanks.

11 MR. SMITH: Mr. Dickens -- or do the

12 Commissioners have any questions? Mr. Coit?

13 MR. COIT: No questions.

14 CHAIRMAN SAHR: I do have a

15 question.

16 MR. SMITH: Mr. Sahr.

17 CHAIRMAN SAHR: Am I out of order?

18 MR. SMITH: No, you're not.

19 CHAIRMAN SAHR: Good morning.

20 THE WITNESS: Good morning.

21 CHAIRMAN SAHR: The cost estimates

22 on potential costs that would be borne either by

23 your organization or else the consumers range

24 anywhere around a dollar, maybe a little bit less,

25 up to 6 or \$7. Could you talk a little bit about

1052

1 the impact that this surcharge if it is passed

2 through the consumers could have on your customers

3 and what sort of contact you expect to get from the

4 public?

5 THE WITNESS: Well, as far as our

6 customers, as you add the surcharges and customers

7 port their numbers that cost of the porting -- the

8 surcharges would have to go up to the remaining

9 customers on our system so, you know, that would be

10 a problem, I think. And it will be difficult -- I

11 don't know if that's what you're asking.

12 CHAIRMAN SAHR: I guess what I'm

13 getting at is would you expect to hear from the

14 public if you enacted a surcharge of \$1 or even up

15 to \$7?

16 THE WITNESS: I would think we would

17 hear from them, yes.

18 CHAIRMAN SAHR: And what do you

19 think the comment from the consumers would be?

20 THE WITNESS: I don't believe the

21 majority would like it.

22 CHAIRMAN SAHR: Thank you.

23 MR. SMITH: Any other Commissioner

24 questions?

25 Mr. Dickens.

1053

1 MR. DICKENS: Thank you. I just  
 2 have one question.  
 3 REDIRECT EXAMINATION  
 4 BY MR. DICKENS:  
 5 **Q** When you were being examined by Mr. Lewis he asked you  
 6 on the subject of EAS service whether customers enjoyed  
 7 that wider area calling.  
 8 Do you recall that question?  
 9 **A** Yes, I do.  
 10 **Q** Do you think that wider area calling is necessarily  
 11 better?  
 12 **A** No, I don't.  
 13 MR. SMITH: Mr. Lewis, do you have  
 14 any recross?  
 15 MR. LEWIS: Nothing further.  
 16 MR. SMITH: Anything else?  
 17 MS. AILTS WIEST: No.  
 18 MR. SMITH: You're excused,  
 19 Ms. Harrington. Thank you for coming today.  
 20 Mr. Dickens, please call your next witness.  
 21 MR. DICKENS: I'd like to call  
 22 Mr. Dan Davis. I'd like to call Mr. Davis to the  
 23 stand.  
 24 MR. SMITH: Thank you. Go ahead.  
 25

1055

1 on the cost estimates for RC Communications and Roberts  
 2 County Telephone Cooperative Association, which I'll  
 3 just refer to as RC Roberts County.  
 4 My summary testimony, which I gave yesterday  
 5 on behalf of the four other RLECs, is the same as for  
 6 RC Roberts, that is the assumptions and cost components  
 7 are the same for RC Roberts as was discussed for the  
 8 four RLECs.  
 9 If RC Roberts is not responsible for  
 10 transport costs, which, again we contend that they are  
 11 not, the estimated cost that I calculated was  
 12 approximately \$1.41 per line per month. If RC Roberts  
 13 would be responsible for transporting calls using DS-1  
 14 direct connections, the estimated cost that I  
 15 calculated was \$7.07 per line per month. The overall  
 16 nonrecurring costs for local number portability for RC  
 17 Roberts based on my estimate was approximately \$74,000  
 18 excluding transport, compared to Mr. Williams' estimate  
 19 of approximately 66 to \$67,000 including transport.  
 20 And with that, that concludes my summary.  
 21 MR. DICKENS: I'd like to move the  
 22 admission of RC Exhibit 3.  
 23 MR. WIECZOREK: No objection.  
 24 MS. AILTS WIEST: No objection.  
 25 MR. COIT: No objection.

1054

1 DIRECT EXAMINATION  
 2 BY MR. DICKENS:  
 3 **Q** Mr. Davis, I think you've been previously sworn in this  
 4 Docket.  
 5 **A** Yes.  
 6 **Q** And you have before you what has been marked as RC  
 7 Communications Exhibit 3 for RC and Roberts County?  
 8 **A** Yes. That's correct.  
 9 **Q** Does that appear to be your direct testimony?  
 10 **A** It is.  
 11 **Q** Okay. Was that testimony prepared by you?  
 12 **A** Yes, it was.  
 13 **Q** Okay. And do you have any changes or additions or  
 14 corrections?  
 15 **A** No, I don't.  
 16 **Q** Is it therefore true and correct to the best of your  
 17 knowledge?  
 18 **A** Yes, it is.  
 19 **Q** And if I asked you the same questions today as are  
 20 contained in your prefiled testimony, your answers  
 21 would be the same?  
 22 **A** They would be.  
 23 **Q** Do you have a summary that you can present of that  
 24 testimony?  
 25 **A** I do, a very brief summary. I'm here today to testify

1056

1 MR. DICKENS: And tender Mr. Davis  
 2 for cross-examination.  
 3 MR. SMITH: RC Exhibit 3 is  
 4 admitted. Please do.  
 5 MR. WIECZOREK: Thank you,  
 6 Mr. Smith.  
 7 CROSS-EXAMINATION  
 8 BY MR. WIECZOREK:  
 9 **Q** Mr. Davis, I've got a few questions for you on the RC  
 10 and Roberts County numbers. You were here when  
 11 Ms. Harrington just testified; correct?  
 12 **A** Yes.  
 13 **Q** And as she testified this morning, these are actually  
 14 two companies, one's a cooperative, one's a  
 15 corporation?  
 16 **A** That is my understanding, correct.  
 17 **Q** Okay. And you're not providing those numbers broken  
 18 out by company, you lumped them together; correct?  
 19 **A** I did lump them together.  
 20 **Q** The way you calculated transport for these companies is  
 21 the same way you calculated transport for all the  
 22 companies you've testified on behalf of; correct?  
 23 **A** Correct.  
 24 **Q** And like the other four companies, I believe your  
 25 testimony reflected yesterday this was the other cost

1057

1 analysis you did -- well, let me back up. This is the  
 2 only possible way to transport these calls where you  
 3 did a cost analysis; correct?  
 4 A That would be correct.  
 5 Q And the reason you calculated transport costs this way  
 6 is because of the existing Interconnection Agreement?  
 7 A Interconnection Agreements and just the fact that we  
 8 don't route -- or the RLECs don't route local traffic  
 9 to points of interconnection outside their exchange.  
 10 Q Okay. Do you know whether the cooperative and the  
 11 corporation, RC and Roberts County, whether they  
 12 represent themselves in their Interconnect Agreements  
 13 as one or two companies?  
 14 A I believe -- I really don't know. I believe since  
 15 they're two separate legal entities, that they would  
 16 have to have two separate Interconnection Agreements.  
 17 MR. WIECZOREK: That's all I have.  
 18 MR. SMITH: Ms. Wiest?  
 19 MS. AILTS WIEST: No questions.  
 20 MR. SMITH: Commissioners? Is there  
 21 anything further?  
 22 MR. COIT: I don't have any  
 23 questions.  
 24 MR. SMITH: Thank you. You are  
 25 excused, Mr. Davis.

1058

1 THE WITNESS: Thank you very much.  
 2 MR. SMITH: Thank you. Does that  
 3 conclude the case-specific hearing for RC and  
 4 Roberts County?  
 5 MR. WIECZOREK: We'll call  
 6 Mr. Williams.  
 7 (Discussion off the record)  
 8 MR. WIECZOREK: May I commence,  
 9 Mr. Smith?  
 10 MR. SMITH: Yes. Please proceed.  
 11 Are you ready, Mr. Dickens?  
 12 MR. DICKENS: Yes.  
 13 DIRECT EXAMINATION  
 14 BY MR. WIECZOREK:  
 15 Q Mr. Williams, you testified yesterday and presented a  
 16 company-by-company spreadsheet which was marked Western  
 17 Wireless Exhibit No. 18. Do you recall that?  
 18 A I do.  
 19 Q Did that have a page that dealt with the Roberts County  
 20 numbers?  
 21 A It did.  
 22 Q And that represented what you believe to be the actual  
 23 costs per line in Roberts County and the co-op;  
 24 correct?  
 25 A Yes, it does.

1059

1 Q Well, do you have any specific summary specific to  
 2 Roberts County that you'd like to address to the  
 3 Commission?  
 4 A I think the exhibit speaks for itself. It's similar in  
 5 nature and concept to the other cost exhibits that  
 6 we've produced in this.  
 7 MR. WIECZOREK: I'd make him  
 8 available for cross-examination.  
 9 MR. SMITH: Mr. Dickens?  
 10 CROSS-EXAMINATION  
 11 BY MR. DICKENS:  
 12 Q Using my psychic powers, if you look at the lower  
 13 right-hand corner of your exhibit, it shows that you  
 14 have assumed 65 ports per year?  
 15 A Correct.  
 16 Q In your calculations shown on this spreadsheet did  
 17 you -- and that 65 ports is an annual number; is that  
 18 correct?  
 19 A Annual for all intermodal ports.  
 20 Q Okay. And in the calculation shown on your spreadsheet  
 21 did you reduce the number of lines per year to reflect  
 22 the 65 ports that you projected would occur?  
 23 A No. The methodology to do that would be to take the  
 24 costs over a five-year period, the access lines  
 25 projected over a five-year period, and then use the

1060

1 differing costs for each year and the differing access  
 2 lines for each year and then to obtain a present value  
 3 for all of those numbers to come up with an appropriate  
 4 end-user fee.  
 5 Q I think I understand the explanation or methodology,  
 6 but the answer to my question is no; is that correct?  
 7 A Ask your question again.  
 8 Q Okay. The calculation shown on your spreadsheet does  
 9 not reduce the number of access lines of RC and Roberts  
 10 County by the number of ports you assume to occur every  
 11 year; is that correct?  
 12 A That's correct.  
 13 MR. DICKENS: Okay. Those are all  
 14 the questions I have.  
 15 MR. COIT: No questions.  
 16 MS. AILTS WIEST: No questions.  
 17 MR. SMITH: Commissioners, any  
 18 questions?  
 19 Mr. Wieczorek?  
 20 MR. WIECZOREK: No redirect.  
 21 MR. SMITH: Thank you, Mr. Williams.  
 22 Do you have any further witnesses, Mr. Wieczorek?  
 23 MR. WIECZOREK: No, I don't.  
 24 MR. DICKENS: We do not. That  
 25 completes our case.

1061

1 MR. SMITH: Okay. The case is  
 2 completed then in RC Communications and Roberts  
 3 County. Thank you for coming.  
 4 MR. DAVIS: Thank you very much.  
 5 MR. SMITH: Do you want to proceed  
 6 right onto Cheyenne River?  
 7 MR. DICKENS: We need actually a few  
 8 minutes for discussion.  
 9 MR. SMITH: Do you want to reconvene  
 10 at 9:30?  
 11 MR. DICKENS: Yes. That would be  
 12 good.  
 13 MR. SMITH: We're in recess until  
 14 9:30.  
 15 (A short recess is taken)  
 16 (Exhibits Cheyenne River 1 through 5 are marked for  
 17 identification)  
 18 MR. SMITH: We are reconvened in the  
 19 LNP suspension cases following our recess at 10  
 20 after 9:00. And now is the time and place for  
 21 consideration of TC04-085, petition of Cheyenne  
 22 River Sioux Tribe Telephone Authority.  
 23 Mr. Dickens, you may proceed with your case.  
 24 MR. DICKENS: Thank you. Well,  
 25 Commissioners, we have reached an agreement with

1062

1 Western Wireless, and I'll outline the broad terms  
 2 of it and Mr. Wieczorek will keep me straight  
 3 should I stray.  
 4 But in broad terms we have agreed to implement  
 5 local number portability for Western Wireless and  
 6 anyone else that has a direct connect with Cheyenne  
 7 River. There is only one direct connect there now.  
 8 In that respect it looks a little bit like the  
 9 James Valley agreement that was reached the other  
 10 day.  
 11 We do intend to maintain our position  
 12 vis-a-vis transport for other carriers who choose  
 13 to access Cheyenne River's traffic via the indirect  
 14 connection and that will be reflected in a  
 15 settlement agreement that we sign with Western  
 16 Wireless and bring before you in a couple of days  
 17 which we intend to file in the Docket.  
 18 We have further agreed to stipulate the  
 19 testimony, prefiled testimony, of our witnesses and  
 20 Western Wireless's witness in without  
 21 cross-examination, and we have a further correction  
 22 to an exhibit which is marked number 5 that will be  
 23 stipulated in. And I thought just to correct the  
 24 record because the testimony that we are  
 25 stipulating in on our part is not correct at this

1063

1 point and so to correct the record I thought I  
 2 would have Mr. Neff, who is appearing on behalf of  
 3 the Cheyenne River Sioux Tribe, take the stand just  
 4 to explain the corrections that are made to his  
 5 testimony and why those corrections are made, which  
 6 will, I think, explain the reason for the  
 7 settlement also. If that's acceptable, that's what  
 8 we'll do.  
 9 Did I leave anything out, Talbot?  
 10 MR. WIECZOREK: I think we agreed to  
 11 a date to be LNP capable of October 1 this year so  
 12 it would match the same date as James Valley's  
 13 settlement.  
 14 MR. SMITH: Unless the Commissioners  
 15 have an objection, I certainly don't object to  
 16 that. It's an encouraging development. So do you  
 17 want to call Mr. Neff then to correct the exhibit?  
 18 MR. DICKENS: Yes.  
 19 MR. SMITH: And then if you just, at  
 20 that point if the attorneys just want to stipulate  
 21 admission, that's what we'll do.  
 22 MR. DICKENS: Okay. Well, let me  
 23 ask --  
 24 MR. SMITH: Can you identify for us  
 25 just so we know what the exhibit numbers are that

1064

1 relate to which documents, please?  
 2 MR. DICKENS: Yes. Exhibits 1 and 2  
 3 are the direct and rebuttal testimony of  
 4 Mr. Williams. Exhibits 3 and 4 are the direct and  
 5 rebuttal testimony of Mr. Neff. Exhibit 5 corrects  
 6 an exhibit attached to Mr. Neff's direct testimony,  
 7 which is no longer correct, the exhibit that was  
 8 attached to his direct testimony.  
 9 Can we go off the record a second?  
 10 MR. SMITH: Please.  
 11 (Discussion off the record)  
 12 MR. DICKENS: Would that be okay?  
 13 MR. SMITH: Okay.  
 14 MR. WIECZOREK: I have no objection  
 15 to that.  
 16 MR. DICKENS: That's what we'll do  
 17 and get you a signed settlement agreement within 24  
 18 to 48 hours.  
 19 MR. SMITH: Is Western Wireless in  
 20 agreement with stipulating to the exhibits?  
 21 MR. WIECZOREK: Yes. I'd agree to  
 22 Cheyenne River 1 through 5 and, as I understand our  
 23 agreement, Mr. Williams' that's been already  
 24 prefiled will also apply to this Docket.  
 25 MR. SMITH: Is that so stipulated,

1065

1 Counsel?  
 2 MR. DICKENS: Yes.  
 3 MR. SMITH: That being the case, we  
 4 will admit Cheyenne River Exhibits 1 through 5 and,  
 5 as I understand the situation then, this proceeding  
 6 with respect to at least Cheyenne River will be --  
 7 we will be in recess pending -- or we will continue  
 8 the proceeding until a date to be determined in  
 9 order to consider the stipulation.  
 10 Is that a fair statement?  
 11 MR. DICKENS: Just to be clear, I  
 12 don't think that -- I'm trying to think of the  
 13 effect of this. There aren't any other parties to  
 14 this case other than us and Western Wireless.  
 15 MR. SMITH: SDTA.  
 16 MR. DICKENS: We hope he's on our  
 17 side today. So I guess if we sign the settlement  
 18 agreement, I think that would be okay.  
 19 MR. SMITH: Ms. Wiest, do you have  
 20 anything?  
 21 MS. ALTS WIEST: No. We'll wait  
 22 until we see the settlement agreement.  
 23 MR. SMITH: Do we want to schedule a  
 24 date for consideration of the stipulation? I  
 25 really seriously doubt if you'll have it here by

1066

1 hearing time tomorrow. That would seem to be --  
 2 MR. COIT: Can you do it at the  
 3 Commission meeting?  
 4 MR. SMITH: When is that scheduled?  
 5 CHAIRMAN SAHR: Next Tuesday.  
 6 MR. SMITH: We certainly could if  
 7 you think we could make a deadline like that. And  
 8 Monday is the Fourth of July.  
 9 MR. DICKENS: I've got to appear  
 10 before another Commission Tuesday morning so -- we  
 11 may have it to you by the day after tomorrow.  
 12 MR. SMITH: We're way out there.  
 13 This was the last filed petition so we're not under  
 14 any time deadline for this case. We'll be able to  
 15 schedule something.  
 16 CHAIRMAN SAHR: Well, the next  
 17 Commission meeting is July 20.  
 18 MR. SMITH: That would be a  
 19 possibility and actually we may have quite a  
 20 lengthy time.  
 21 CHAIRMAN SAHR: That may make more  
 22 sense to make sure we get the parties adequate time  
 23 to reduce this to writing, cross the Ts and dot the  
 24 Is and give staff the appropriate time. I feel if  
 25 we try to shoehorn this into the July 6 meeting

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1 we're asking a lot of the parties and if we have  
 2 the time and are not stuck in a procedural bind why  
 3 not give ourselves two more weeks to consider this.  
 4 And I would echo John's sentiments as well praising  
 5 the parties for sitting down and coming up with a  
 6 solution that will resolve the case.  
 7 COMMISSIONER BURG: Can I ask some  
 8 clarifying questions on this document?  
 9 MR. SMITH: Please.  
 10 COMMISSIONER BURG: And this is  
 11 probably on both this one and James Valley. Does  
 12 the companies pay transport costs? Will Cheyenne  
 13 River or James Valley -- you said it's similar.  
 14 Will they pay transport costs?  
 15 MR. DICKENS: No, Mr. Chairman.  
 16 Right now Western Wireless has an existing direct  
 17 connect into Eagle Butte, the Eagle Butte exchange  
 18 and --  
 19 COMMISSIONER BURG: So then my  
 20 question is, does this column that says with  
 21 transport, does that even apply?  
 22 MR. DICKENS: Well, I don't think it  
 23 would apply to Western Wireless, but it may apply  
 24 to other carriers and we're going to address that  
 25 in the settlement. Because for carriers that don't

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1 have a direct connect the transport issue will  
 2 continue to be alive and affected by what you do --  
 3 COMMISSIONER BURG: At least until  
 4 the FCC does something about it.  
 5 MR. DICKENS: Right.  
 6 COMMISSIONER BURG: So for the  
 7 purposes of this, for the stipulation agreement  
 8 with Western Wireless the column with transport  
 9 doesn't apply. Is that my understanding?  
 10 MR. DICKENS: It would not apply to  
 11 Western Wireless.  
 12 COMMISSIONER BURG: So then I go to  
 13 the very last line you've got LNP costs per access  
 14 line. Is that per month, or is that one time?  
 15 MR. DICKENS: I believe that's per  
 16 month, is that correct? Yes.  
 17 COMMISSIONER BURG: So we're adding  
 18 70 cents to their bill for having LNP in Cheyenne  
 19 River?  
 20 MR. DICKENS: Yes.  
 21 COMMISSIONER BURG: It looks like  
 22 16.55 is the monthly total costs then; right?  
 23 MR. DICKENS: Yes.  
 24 COMMISSIONER BURG: That would come  
 25 out to 70 cents a line?

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1 VICE CHAIR HANSON: That's right.  
 2 COMMISSIONER BURG: Okay. That  
 3 answered the question I wanted clarified.  
 4 MR. DICKENS: Thank you.  
 5 MR. COIT: I guess I would -- and  
 6 J.D. or Ron, correct me if I'm wrong. The direct  
 7 connect right now is in Eagle Butte; right?  
 8 MR. WILLIAMS: Yeah.  
 9 MR. COIT: They've got a host remote  
 10 situation there. Eagle Butte's the host. They've  
 11 got all the other switches in the back of that  
 12 basically, and it's all part of one calling area.  
 13 So with the direct connect they establish a POI in  
 14 the host area, and there's the local calling area  
 15 behind that that includes all the other CRSTs.  
 16 MR. WIECZOREK: The only point I'd  
 17 make is it's my understanding the switch is already  
 18 LNP compliant essentially so they've already  
 19 incurred most of these costs.  
 20 COMMISSIONER BURG: So these are not  
 21 new costs?  
 22 MR. COIT: Right.  
 23 COMMISSIONER BURG: So that brings  
 24 up why would they be there and have a 70 cent per  
 25 line increase if that's already been --

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1 MR. DICKENS: Well --  
 2 MR. COIT: They could file for  
 3 recovery through NECA, I would think.  
 4 MR. DICKENS: Yes. I mean, I  
 5 believe the company's eligible to file for the  
 6 surcharge treatment with NECA. You're a NECA pool  
 7 member, aren't you?  
 8 (Mr. Neff nods head)  
 9 MR. SMITH: Is there anything  
 10 further in this Docket?  
 11 MR. DICKENS: No.  
 12 MR. SMITH: The hearing then in  
 13 TC04-085 is continued until a date can be  
 14 determined following submission of the parties'  
 15 stipulation to the admission. We are adjourned.  
 16 (The proceedings are in recess)

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1 (Exhibits Santel 1 through 3 are marked for identification)  
 2 (Exhibits ITC 6 through 8 are marked for identification)  
 3 MR. SMITH: The LNP suspension  
 4 Dockets hearing is reconvened. Today is July 1,  
 5 2004. It's a quarter to 9:00, and this is the time  
 6 and place set for hearing in Santel, which is  
 7 Santel Communications Cooperative, Inc., which is  
 8 TC04-038, and it is also the time that was set for  
 9 the continued hearings in ITC, which is -- the ITC  
 10 suspension Docket, which is TC04-054, and James  
 11 Valley Telephone Company, which is, I think,  
 12 04-077. Is that right?  
 13 MR. GERDES: Yes.  
 14 MR. SMITH: 077. We're first going  
 15 to consider the 054, TC04-054, which is Interstate  
 16 Telephone Company, and as I understand it, this is  
 17 also going to implicate Docket TC03-192, which is  
 18 the contract case between Midco and ITC.  
 19 And I'm not sure which of the parties -- I  
 20 guess, Ben, do you want to lead off for ITC?  
 21 MR. DICKENS: Well, basically I'll  
 22 defer to Mr. Gerdes. We have reached an agreement,  
 23 and Mr. Gerdes can summarize the terms if he would  
 24 like.  
 25 MR. GERDES: Mr. Chairman, members

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1 of the Commission, Mr. Smith, the parties have been  
 2 negotiating throughout the course of these  
 3 hearings, and just as a matter of information, we  
 4 have entered into a settlement agreement in the 192  
 5 Docket. It has been signed, and it will be filed  
 6 with the Commission in the usual way, that is  
 7 original and 10 copies to be filed. I have copies  
 8 and so does Mr. Dickens. We both have copies  
 9 available for anybody who wants to see the  
 10 agreement now. But just as a matter of  
 11 information, we have settled that Docket, and the  
 12 agreement will be filed.  
 13 And then we have marked Exhibits 6, 7, and 8,  
 14 which are prepared prefiled testimony of Jerry  
 15 Heiberger, Mary Lohnes, and Tom Simmons, and it is  
 16 our stipulation that these exhibits may be admitted  
 17 into the 054 Docket.  
 18 MR. SMITH: Is Lohnes No. 7?  
 19 MR. GERDES: Heiberger is 6, Simmons  
 20 is 7, and Lohnes is 8. May that be so stipulated?  
 21 MR. DICKENS: Yes. And we have one  
 22 further stipulation.  
 23 MR. GERDES: I think we need to hear  
 24 from Mr. Wieczorek.  
 25 MR. WIECZOREK: I have no objection.



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1 Some of it was just handed to me, but I sped read  
2 it and I have no objections to it being admitted.

3 MR. COIT: I have no objections on  
4 that either.

5 MS. AILTS WIEST: No objection.

6 MR. SMITH: Okay. ITC Exhibits 6,  
7 7, and 8 in Docket TC04-054 are admitted.

8 MR. GERDES: Secondly, we stipulate  
9 that the stricken part of Jerry Heiberger's  
10 testimony in the 192 Docket may be -- well, strike  
11 that.

12 It is our stipulation that all of the evidence  
13 in the 192 Docket, including that portion of Jerry  
14 Heiberger's testimony which was stricken, may be  
15 admitted into evidence in the 054 Docket.

16 So stipulated?

17 MR. DICKENS: Yes.

18 MR. WIECZOREK: No objection.

19 MR. COIT: No objection.

20 MS. AILTS WIEST: No objection.

21 MR. SMITH: Okay. Where is that?

22 MR. GERDES: Well, there would be  
23 the written testimony --

24 MR. SMITH: That's ITC 1 in the 192  
25 Docket.

1 MS. AILTS WIEST: Yes.

2 MR. COIT: Yes.

3 MR. SMITH: Okay. Then the  
4 evidentiary record in 192 will be admitted as  
5 evidence into Docket TC04-054.

6 MR. GERDES: And then finally we  
7 stipulate that if Jerry Heiberger were called and  
8 testified here today, he would testify that four  
9 ITC customers have changed their service to  
10 Midcontinent in the Webster Docket since March of  
11 2004.

12 MR. COIT: Yes.

13 MR. WIECZOREK: No objection.

14 MR. COIT: No objection.

15 MS. AILTS WIEST: No objection.

16 MR. SMITH: So stipulated.

17 MR. GERDES: I think that is it, is  
18 it not?

19 MR. DICKENS: Yes. I think that's  
20 everything.

21 MR. GERDES: With that, Midcontinent  
22 rests in the 054 Docket.

23 MR. DICKENS: We rest in the 054  
24 Docket. And I guess we'll file the stipulation  
25 with the Commission.

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1 MR. GERDES: Yes. And plus it's  
2 perhaps partially redundant but we're also talking  
3 about -- we're talking about both direct and cross  
4 on all three witnesses, that is Tom Simmons, Mary  
5 Lohnes, and Jerry Heiberger.

6 MR. SMITH: What you stipulated to  
7 is that all of the testimony in the 192 Docket be  
8 admitted?

9 MR. GERDES: Right.

10 MR. SMITH: The entire evidentiary  
11 record in the 192 Docket will be admitted into the  
12 054 Docket.

13 MR. GERDES: Right. Including the  
14 portion of Jerry Heiberger's testimony that was  
15 stricken.

16 MR. SMITH: Right.

17 MR. WIECZOREK: I do have one  
18 question. Was there testimony beyond Jerry  
19 Heiberger's submitted testimony on behalf of ITC in  
20 the 192 Docket?

21 MR. DICKENS: No.

22 MR. WIECZOREK: Just Heiberger? No  
23 objection then.

24 MR. SMITH: Do the other parties  
25 agree to that stipulation?

1 MR. SMITH: Did you have any -- and  
2 you don't have anything further relative to that,  
3 Mr. Wieczorek, do you?

4 MR. WIECZOREK: No, I don't.

5 MR. SMITH: Okay. As I understand  
6 it then, the 054 Docket with respect to Midco and  
7 ITC has not been resolved as of this point?

8 MR. GERDES: That's correct. We  
9 would still intend to brief as will ITC.

10 MR. SMITH: Okay. Thank you.  
11 Mr. Wieczorek, another preliminary matter. We were  
12 to have the James Valley stipulation presented this  
13 morning. As I understand it, there's been a  
14 technical glitch develop.

15 MR. WIECZOREK: Yeah. We've flowed  
16 the language back and forth and we have essentially  
17 everything agreed to but there's one technical  
18 question that Mr. Cremer had for his client and his  
19 client was unavailable yesterday to answer it.

20 During my phone conference with Mr. Cremer  
21 yesterday over the language I informed him that the  
22 Commission was looking at approving CRST on the  
23 20th, and he asked me on behalf of him and  
24 Western Wireless to represent that we don't foresee  
25 having any problems with presenting on the 20th,

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1 the same time you look at CRST.  
 2 MR. SMITH: Is that acceptable to  
 3 the Commissioners?  
 4 VICE CHAIR HANSON: Yes.  
 5 CHAIRMAN SAHR: Yes.  
 6 MR. SMITH: We'll schedule that for  
 7 presentation of the Commission on July 20 in  
 8 connection with -- the Docket number on that is  
 9 TC04-077.  
 10 Does that conclude all the preliminary matters  
 11 then, Mr. Dickens?  
 12 MR. DICKENS: With respect to 054, I  
 13 have a couple of other housekeeping matters I'd  
 14 like to take care of before I slip the surly bonds  
 15 of --  
 16 MR. WIECZOREK: South Dakota?  
 17 MR. DICKENS: I've got an order of  
 18 the Minnesota Commission --  
 19 MR. WIECZOREK: I think it's a  
 20 letter.  
 21 MR. DICKENS: Is it a letter? My  
 22 memory has started slipping too early in the  
 23 morning.  
 24 It is a letter dated June 23 --  
 25 MR. SMITH: '04?

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1 MR. DICKENS: Yes. June 23, '04  
 2 that indicates that several companies including  
 3 Hills Telephone Company, Sioux Valley, and  
 4 Interstate Telephone Cooperative along with the  
 5 Minnesota company Winnebago Telephone should not  
 6 have been included. It's a letter from counsel  
 7 that these companies should not have been included  
 8 in the MIC Docket that received some attention  
 9 earlier in the case. And we would like to have  
 10 this marked and received into evidence.  
 11 MR. WIECZOREK: It came up in at  
 12 least a couple different Dockets but it's my  
 13 understanding under what we've agreed to is  
 14 anything marked as an exhibit in one Docket can be  
 15 used in another. So it came up in ITC first so I  
 16 think it makes sense to mark it as an ITC exhibit.  
 17 MR. SMITH: That will be ITC 9.  
 18 (Exhibit ITC 9 is marked for identification)  
 19 MR. WIECZOREK: The Commission might  
 20 recall last week Ms. Rogers brought this up towards  
 21 the end of the week and my only request was we get  
 22 one stamp filed with the Commission. This is stamp  
 23 filed with the Minnesota Commission and rather than  
 24 the Commissioners taking judicial notice  
 25 Mr. Dickens and I talked about it and thought it

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1 would be easier to have it marked into evidence so  
 2 the record would be complete with that into  
 3 evidence.  
 4 MR. DICKENS: I further have  
 5 corrected exhibits from Mr. Bullock, and I  
 6 understand these were e-mailed to you, Tal --  
 7 MR. WIECZOREK: I believe so.  
 8 MR. DICKENS: I'd like to offer that  
 9 as an ITC Docket. It would be Exhibit No. 9.  
 10 MR. SMITH: Is there objection to  
 11 ITC Exhibit 9?  
 12 MR. WIECZOREK: I have none.  
 13 MR. COIT: No objection.  
 14 MS. AILTS WIEST: No objection.  
 15 MR. SMITH: ITC 9 is admitted.  
 16 MR. GERDES: No objection.  
 17 MR. DICKENS: Then I have a  
 18 corrected sheet from Mr. Bullock that he indicated  
 19 he would supply. As you may recall he made some  
 20 corrections on the stand to his numbers and he has  
 21 supplied corrected exhibits for Alliance, Golden  
 22 West, and Valley Telephone. It's a three-page  
 23 exhibit. And I'll have to figure out with Cheri  
 24 how we marked that.  
 25 (Discussion off the record)

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1 MR. WIECZOREK: It would be my  
 2 preference since it actually amends exhibits that  
 3 are part of his testimony to mark it as a Bullock  
 4 exhibit. I think it would be easier to track it  
 5 that way.  
 6 MR. SMITH: Just call it Bullock 3?  
 7 MR. WIECZOREK: If nobody else has  
 8 an objection.  
 9 MR. SMITH: I think the last I've  
 10 got mark -- and if there is particularly -- Bullock  
 11 1 is Bullock's introductory direct testimony.  
 12 Bullock 2 is his rebuttal, which was common to all  
 13 companies. Whatever you want to do.  
 14 MR. COIT: I think that makes sense.  
 15 MR. SMITH: Call it Bullock 3.  
 16 MR. WIECZOREK: Yeah. He did have  
 17 that spreadsheet, which I believe was TRB 1 that  
 18 this would then modify those numbers on that  
 19 spreadsheet.  
 20 MR. SMITH: Was that an exhibit?  
 21 MR. WIECZOREK: That was an exhibit  
 22 to his rebuttal testimony.  
 23 MR. SMITH: It would definitely make  
 24 sense to call it 3.  
 25 MR. WIECZOREK: That was the one he

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1 operated on and said this change should be this  
2 change.  
3 MR. DICKENS: Yeah. It relates to  
4 Exhibit 3 which is why it's labeled in that corner.  
5 And I'd move the admission of that.  
6 MR. WIECZOREK: No objection.  
7 MR. COIT: No objection.  
8 MS. AILTS WIEST: No objection.  
9 MR. SMITH: Bullock 3 is admitted.  
10 (Exhibit Bullock 3 is marked for identification)  
11 MR. DICKENS: Finally, we have  
12 corrected exhibits and a piece of supplemental  
13 testimony from Mr. DeWitte that he indicated to  
14 staff -- he indicated to staff he would supply a  
15 corrected schedule, I believe; is that right?  
16 MR. DEWITTE: Yes.  
17 MR. DICKENS: That he would supply a  
18 corrected schedule for the changes he's made, and  
19 he also, even though I don't think he was requested  
20 by staff, he also prepared a narrative of the  
21 changes that just explains in English what the  
22 changes are and it's six pages long. And I'd like  
23 to have this marked as an exhibit also. And that  
24 would be for the cases Mr. DeWitte appeared in,  
25 which is Swiftel, Interstate, James Valley, Santel,

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1 Stockholm-Strandburg, Venture Communications, and  
2 West River.  
3 (Discussion off the record)  
4 (Exhibits ITC 4A and 4B are marked for identification)  
5 MR. DICKENS: With that, I would  
6 move the admission of ITC 4A and 4B and  
7 Mr. DeWitte is present if anyone wants to question  
8 him about the supplemental exhibits.  
9 MR. GERDES: I have no objections.  
10 MR. WIECZOREK: I have no objections  
11 but would like to ask a couple of clarifying  
12 questions. We were only given this information 10  
13 minutes before we started and Mr. DeWitte was kind  
14 enough to sit and answer some questions for me but  
15 I'd like to clarify a couple of things on the  
16 record and I can either do that when he's on for  
17 Santel or we can put him on now.  
18 MR. SMITH: Do you care, Jeff?  
19 MR. LARSON: No, I don't care if you  
20 want to do it now.  
21 MR. SMITH: Have the exhibits been  
22 offered?  
23 MR. DICKENS: Yes.  
24 MR. SMITH: Is there an objection to  
25 receiving the exhibits, first of all?

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1 MR. WIECZOREK: Not as long as I get  
2 to ask a couple of questions, I have no objections.  
3 MS. AILTS WIEST: No objections.  
4 MR. COIT: No objections.  
5 MR. SMITH: ITC Exhibits 4A and 4B  
6 are admitted. Does that conclude your submissions  
7 this morning, Mr. Dickens?  
8 MR. DICKENS: Yes. Thank you very  
9 much.  
10 MR. SMITH: You're welcome.  
11 Mr. Wieczorek, please, you may call Mr. DeWitte  
12 then. Are you ready, or do you need some time?  
13 MR. WIECZOREK: No. Just a couple  
14 of quick clarifying questions so I make sure it's  
15 in the record.  
16 MR. COIT: With respect to ITC  
17 Exhibit 4B, I notice the shading is pretty hard to  
18 read. Is the original colored?  
19 MR. DEWITTE: Yeah. He's going to  
20 mark his original colored.  
21 MR. WIECZOREK: Actually I would  
22 make a request -- these were handed out in  
23 black-and-white this morning. I would make a  
24 request that counsel for parties provide -- I mean,  
25 they can just e-mail us a copy of the spreadsheet

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1 so we can all have colored copies if we wanted to.  
2 MR. DICKENS: We would be happy to  
3 do that.  
4 (Discussion off the record)  
5 MR. SMITH: Ben, I don't know if  
6 maybe your time is too crunched. I don't know if  
7 you have your file here but you could probably run  
8 it downstairs and they could spit out some colored  
9 copies for you.  
10 MR. DICKENS: Okay. I'd have to  
11 borrow John's because he's got the only colored  
12 copy.  
13 MR. SMITH: Okay. Do we have a  
14 color copier down there? We have a color printer.  
15 CHAIRMAN SAHR: We can take it  
16 downstairs and they can make colored copies in a  
17 matter of minutes. Maybe we want to do that.  
18 MR. SMITH: I just thought if you  
19 had a disk we could run it into our color printer.  
20 THE WITNESS: Do we want to do that  
21 now?  
22 MR. SMITH: I don't care. If you  
23 want to take 5 we could do that. We could have  
24 colored documents to look at.  
25 CHAIRMAN SAHR: Off the record.

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1 (Discussion off the record)

2 MR. SMITH: We're back on the

3 record. And, Mr. Wieczorek -- Mr. DeWitte, you're

4 still under oath and please proceed, Mr. Wieczorek,

5 cross-examination.

6 MR. WIECZOREK: Thank you,

7 Mr. Smith.

8 CROSS-EXAMINATION

9 BY MR. WIECZOREK:

10 Q Mr. DeWitte, I'm going to refer to your summary

11 rebuttal testimony, all right?

12 A Okay.

13 Q And just a couple of initial questions. Although

14 you've changed some of your transport-related cost

15 numbers within what's been currently marked as ITC 4B,

16 and that's the spreadsheet, you have used the same

17 analysis and procedure that we discussed last week;

18 correct?

19 A Yeah. I used my initial direct trunking analysis for

20 that. Because all I was doing was correcting the

21 numbers that pertain to that.

22 Q Right. So that analysis was the DS-1 to every exchange

23 where there wasn't already an existing exchange for

24 every wireless carrier that had a license in that area;

25 correct?

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1 A No, not every carrier that had a license. The ones

2 that would likely be offering service there. There's

3 11 licensees for each area, and I only used four or

4 five.

5 Q Okay. And we had the discussion on Interstate. If you

6 go to page 3 of your testimony you revised the

7 Interstate -- you revised the Interstate numbers down,

8 but there was a lengthy discussion on the fact that RCC

9 was one of the listed companies for -- excuse me. I

10 think that's -- sorry. I believe I misspoke. You

11 might want to go to -- let's go to Venture is what I

12 meant to do. Trying to keep your companies straight,

13 page 5 of 6.

14 You used five CMRS carriers for Venture, and

15 that's the same numbers you used last week; correct?

16 A Correct.

17 Q And there was a lengthy discussion with Mr. Houdek that

18 one of the CMRS carriers you were using was RCC. Do

19 you recall that?

20 A Yes.

21 Q And it was clear last week during the testimony that

22 RCC does not have a license in the majority of the

23 exchanges of Venture's. Do you recall that?

24 A I recall that, but I left it at five CMRS carriers

25 strictly because, you know, there's a likelihood that

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1 there could be five CMRS carriers that cover all of

2 their exchanges. And so the, you know, assumption that

3 we were trying to bring across is that, you know, we

4 weren't going to try to take a direct connection for

5 every possible carrier that could likely be there,

6 meaning all 11 licensees. We were trying to use a

7 reasonable number of carriers that may appear in that

8 area, and five appeared to be the reasonable number for

9 that number.

10 Q All right. But we had this very long discussion that a

11 number of these carriers are not providing services

12 today; correct?

13 A Correct.

14 Q And you have not adjusted your transport by eliminating

15 any possible carriers; correct?

16 A No, I did not eliminate any possible carriers.

17 Q And what I want to get clear for the record is any

18 reduction in transport was simply -- if I recall

19 correctly was because of mathematical errors or you did

20 not know of a preexisting DS-1 line to an exchange?

21 A Correct. After our discussion there were some errors

22 in the formulas and so those have been corrected. And

23 then we reduced the appropriate transport costs for

24 existing connections that were already there.

25 Q Okay. And then on page 4 of 6 you talk about your

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1 reduction -- also your reduction on Venture because

2 there is a switch that already has the LNP software

3 installed.

4 A Yes. Venture has an exchange, Sisseton, South Dakota,

5 which already has the LNP feature bit activated. And

6 so in order to make sure that, you know, we weren't

7 overstating the costs on that particular piece, we did

8 reduce the LNP software cost estimate by Nortel's

9 formula or pricing, which is \$4 equipped line.

10 Q And as I understand it, this LNP feature was purchased

11 as part of a standard upgrade for that switch, and

12 that's why it's there -- or a regular upgrade probably.

13 I don't want to use the word standard.

14 A Yeah. They have already purchased the RTU fee for that

15 as part of -- you know, part of what they purchased. I

16 don't recall the specifics on exactly when it went in.

17 Q Okay. Well, and I'm not trying to be confusing. I

18 won't use the word standard. I'll just use the word

19 they were doing an upgrade of that switch and that was

20 part of the features they purchased when they upgraded

21 that switch?

22 A I believe that's the case, but I don't recall whether

23 it went in initially or whether it went in as an

24 upgrade.

25 MR. WIECZOREK: That's all I have,

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1 unless, like I said, the color spreadsheet prompts  
 2 me to ask something else.  
 3 MR. SMITH: Okay. Well, we'll await  
 4 that. For now then, Mr. Dickens, did you have any  
 5 redirect of the witness?  
 6 MR. DICKENS: No.  
 7 MR. SMITH: Do any of the other  
 8 parties have questions for Mr. DeWitte relative --  
 9 MR. COIT: I just have one.  
 10 CROSS-EXAMINATION  
 11 BY MR. COIT:  
 12 **Q** Mr. DeWitte, do you know, did Venture -- they purchased  
 13 the Sisseton exchange not all that long ago. Do you  
 14 know, did Venture actually replace the switch that  
 15 Qwest had in there?  
 16 **A** I don't recall that off the top of my head. I don't  
 17 know if they purchased that as part of the exchange or  
 18 not.  
 19 MR. COIT: Thank you.  
 20 MR. SMITH: Ms. Wiest, any  
 21 questions?  
 22 MS. AILTS WIEST: No questions.  
 23 MR. SMITH: Well, for now I guess --  
 24 well, I don't know if you can step down or not.  
 25 Yeah. I guess you can in the LNP Dockets that you

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1 testified to, other than Santel for now, with the  
 2 proviso that if the colored exhibit additional  
 3 changes that Mr. Wiczorek wants to question you  
 4 with, we may recall you in these Dockets later.  
 5 Thank you.  
 6 THE WITNESS: Thank you, Mr. Smith,  
 7 Commissioners, staff. Thank you.  
 8 MR. SMITH: With respect to the  
 9 other -- with the case that we've been discussing  
 10 this morning, which is the LNP Dockets other than  
 11 Santel and 192, the hearings are in recess, I  
 12 guess, pending receipt of the colored copies, and  
 13 192 the hearing is concluded.  
 14 At this time then are you ready to go,  
 15 Mr. Larson, or should we take a short break or how  
 16 do you want to go?  
 17 MR. LARSON: I'm ready to go.  
 18 MR. SMITH: Are your exhibits  
 19 marked?  
 20 MR. LARSON: Yes, they are. I think  
 21 I'll be pretty short.  
 22 MR. SMITH: Let's take a short break  
 23 and see if Commissioner Burg will come back.  
 24 (A short recess is taken)  
 25 MR. SMITH: We're back on the record

1091

1 in the LNP suspension cases. At this time it is  
 2 time for the hearing in Docket number TC04-038,  
 3 which is petition for local number portability  
 4 suspension on behalf of Santel Communications  
 5 Cooperative, Inc.  
 6 Mr. Larson, are you ready to proceed?  
 7 MR. LARSON: I am, Mr. Smith.  
 8 MR. SMITH: Please proceed with your  
 9 direct case.  
 10 MR. LARSON: Thank you,  
 11 Commissioners, Chairman. I would call Gene Kroell  
 12 as the first witness.  
 13 GENE KROELL,  
 14 called as a witness, being first duly sworn in the  
 15 above cause, testified under oath as follows:  
 16 DIRECT EXAMINATION  
 17 BY MR. LARSON:  
 18 **Q** Would you please state your name and address for the  
 19 record.  
 20 **A** My name is Gene Kroell. I'm general manager at Santel  
 21 Communications. My office is at 308 South Dumont  
 22 Avenue, Woonsocket, South Dakota.  
 23 **Q** Santel is based in Woonsocket; is that correct?  
 24 **A** Yes, it is.  
 25 **Q** And how many exchanges does Santel serve?

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1 **A** We serve 10.  
 2 **Q** And, Gene, I'd like you to look at what has been marked  
 3 as Santel Exhibit 1 and ask is this your direct  
 4 prefiled testimony in this Docket?  
 5 **A** It appears to be.  
 6 **Q** And was this prepared by you or under your direction?  
 7 **A** Yes.  
 8 **Q** And if I asked you the same questions today that's in  
 9 the exhibit, would you respond in the same way?  
 10 **A** Yes. I have no changes.  
 11 **Q** And would you please give us kind of a brief summary of  
 12 your prefiled testimony?  
 13 **A** The summary of my prefiled testimony is Santel  
 14 Communications is a co-op. It's a member-owned  
 15 organization. I own a piece of it, one vote.  
 16 Everybody else the same way. Fairly simple concept of  
 17 doing business, we take the revenue and we subtract the  
 18 expenses and the balance gets allocated to the members  
 19 as capital credits.  
 20 It's their money. They built the company one  
 21 exchange at a time. It started at Forestburg. They  
 22 bought six old exchanges after that, upgraded them, and  
 23 of course in 1996 we purchased three exchanges from US  
 24 West. So basically what we're doing is we're serving  
 25 the part of the country that nobody else wants or

1 wanted.  
 2 Now that we've kind of got this thing  
 3 upgraded where it's running pretty good it appears to  
 4 me that now there's a whole lot more interest than  
 5 there was several years ago. I'm spending members'  
 6 money. I'm very passionate about that. I want to take  
 7 as much of that back to them as I can. The members of  
 8 our co-op feel that they should have the opportunity  
 9 for the direction of where their money is going to be  
 10 spent and not some outside interest.  
 11 And I refer to CALEA as one. That was a  
 12 \$121,000 upgrade to our switch that's absolutely not  
 13 done one thing since June of 2001. I feel the same way  
 14 about this LNP. We haven't had any requests for it.  
 15 If we get into this, we're going to jam it down the  
 16 throats of our members. They're going to come unglued.  
 17 There was quite a surge after the end-user  
 18 charge was raised to \$6.50 about a year ago. We got  
 19 hundreds of telephone calls on that. And, of course,  
 20 it's hard to explain to them that it's caused by  
 21 somebody else, even though it's a line item on the  
 22 bill.  
 23 The other thing is I think there's still some  
 24 issues -- I'm not an expert on this LNP by any sense of  
 25 the means, but I think there's some unanswered

1 questions that the FCC through a proceeding they're  
 2 having with Sprint and I think some of this stuff needs  
 3 to get answered before we jump off the dock in this  
 4 particular case.  
 5 You know, we do this with other stuff. Just  
 6 to give you an example, DSL, I didn't buy a truckload  
 7 of DSL and go around and put it in all the exchanges  
 8 and say here it is, you're going to have to pay for it.  
 9 That's not the way it works. We surveyed our  
 10 customers, saw if there was some interest in it. There  
 11 was. We deployed it.  
 12 But we really try to make sure that we felt  
 13 we could pay for this system before we deployed it.  
 14 It's been slower probably than we thought, but it's  
 15 growing every day.  
 16 I guess that's all.  
 17 MR. LARSON: At this time then I  
 18 would offer Santel Exhibit 1.  
 19 MR. WIECZOREK: I have no objection.  
 20 MR. GERDES: No objection.  
 21 MR. COIT: No objection.  
 22 MS. AILTS WIEST: No objection.  
 23 MR. SMITH: Santel 1 is admitted.  
 24 MR. LARSON: And that's all I have.  
 25 MR. COIT: I have no questions.

1 MR. SMITH: Mr. Coit, you have no  
 2 questions?  
 3 MR. COIT: (Shakes head).  
 4 MR. SMITH: Mr. Wieczorek, you may  
 5 proceed with your cross-examination.  
 6 MR. WIECZOREK: Thank you,  
 7 Mr. Smith.

CROSS-EXAMINATION

BY MR. WIECZOREK:

10 Q Do you recall that in your responses to discovery that  
 11 you estimated 12 ports per year in your Santel --  
 12 A Just a guess.  
 13 Q Okay. Does that sound about right?  
 14 A It might be all right. It might be long, you know. It  
 15 might be more. I don't have an idea. We have not had  
 16 a request.  
 17 Q Okay. Do you understand -- well, let me back up. The  
 18 cost analysis that's being presented by Mr. DeWitte  
 19 here, have you and Santel performed any other cost  
 20 analysis?  
 21 A No. Being a small company we just can't be experts in  
 22 everything so in most things we do we rely very heavily  
 23 on the consultants.  
 24 Q Okay. Do you understand the proposal that Mr. DeWitte  
 25 is making, the hardware that he's proposing to buy to

1 solve the LNP issue?  
 2 A Yes.  
 3 Q Okay. So you understand that it entails a DSL line to  
 4 every one of your exchanges for four different CMRS  
 5 providers?  
 6 A Possible four carriers, yeah.  
 7 Q You talk about possible carriers, and in your direct  
 8 testimony you listed that there were only four wireless  
 9 carriers authorized to serve in Santel's service area;  
 10 correct?  
 11 A Right.  
 12 Q And if I understand that correctly, those are the only  
 13 four carriers who have a license within your areas.  
 14 A I guess I thought there was more licenses than that.  
 15 Well, I know there's more licenses than that. Western  
 16 Wireless, Verizon, Nextel I know are active in the  
 17 Mitchell area today. And we serve everything around  
 18 Mitchell. We serve Ethan, Mt. Vernon, Letcher,  
 19 Artesian.  
 20 Q Is Sprint PCS active?  
 21 A I don't think they're active in our area today.  
 22 Q Okay. But you understand under your proposal you would  
 23 spend \$50,000 to install DS lines to every one of your  
 24 exchanges for that carrier that isn't even active in  
 25 your area.

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1 A Yes.

2 Q You testified that you like to protect your members'

3 money; correct?

4 A Absolutely.

5 Q So when Western Wireless filed testimony in here

6 proposing a much lower cost way to provide for LNP did

7 you investigate that?

8 A You know, there's probably five or six ways we can look

9 at it, but it's expense to us.

10 Q Well, and I understand that you're concerned about your

11 members' money, but under your transport-related costs

12 alone you're projecting in excess of \$700,000 in the

13 first year. Do you understand that?

14 A And I'll defer to Mr. DeWitte on that. They're his

15 figures.

16 Q Okay. Well, I represent to you that if you do his

17 figures, it's \$700,000 in the first year.

18 A Okay. I'll take your math.

19 Q Okay. So when Western Wireless proposes an alternative

20 that is a small fraction of that number to protect your

21 customers' money, don't you think it's worth

22 investigating the proposal made by Western Wireless?

23 A I agree with that.

24 Q And if you could -- if you were ordered to provide LNP

25 and the Western Wireless proposal was a fraction of

1098

1 that \$700,000 where it would save you, let's say, in

2 excess of \$670,000 in that first year, you would be

3 interested in pursuing that type of proposal?

4 A It would certainly be up for discussion.

5 Q Now you received a bona fide request from Western

6 Wireless; correct?

7 A Yes, we have.

8 Q And did you ever contact Western Wireless before filing

9 your petition to talk about whether there's ways to

10 provide LNP that would save your customers money?

11 A We didn't initiate any contact. We got directly with

12 the consultants to see what we were looking at. But,

13 on the other hand, it's a two-way street.

14 Q Well, they made the contact requesting portability;

15 right?

16 A Right.

17 Q And it's reasonable for them to wait for a response

18 from you, wouldn't you agree?

19 A I would agree.

20 Q In your testimony you complain that if you have to

21 install LNP that you'll lose some money that you could

22 use for deploying broadband instead; correct?

23 A That's going to have an effect on it. Our broadband

24 project in the rural areas is not complete by any sense

25 of the means. We have been working on it for several

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1 years. We continue this year and will be continuing

2 next year and the year after.

3 Q Okay. And when you deploy broadband, as part of that

4 expense you upgrade your existing lines; correct?

5 A Absolutely.

6 Q So when you talk about the deployment of broadband,

7 that would include -- part of that would be just

8 upgrading your existing lines; correct?

9 A Well, we need to get the fiber deeper in the loop.

10 When I say we're deploying broadband, it's broadband

11 capabilities, but we go to within 18 kilo feet of the

12 customer's residence with a lightweight unit, but it

13 does not necessarily mean that there's any broadband

14 deployed in that particular optical network unit.

15 Q For broadband are you going to charge your customers

16 for that extra service if they use the broadband

17 service?

18 A You bet. They're paying it today.

19 Q Okay. You understand that the consumers in Mitchell

20 and the cellular consumers are paying -- they have been

21 paying for local number portability charges for years?

22 A Consumers in Mitchell?

23 Q Yes.

24 A Could be.

25 Q How about do you understand that the cell phone

1100

1 consumers all pay an LNP charge?

2 A Yes.

3 Q But you don't want your consumers to have to pay for

4 LNP?

5 A You know, if we've got 12 people out of 5,000 that are

6 maybe going to port their number over, I don't think

7 \$10,000 would be reasonable for something like that.

8 Q You talked about I believe a \$6 charge that got added

9 to your bill that impacted customers in your --

10 A For LNP?

11 Q No. You just talked generally about your customer

12 reaction to it, and I thought you said it was a \$6

13 increase in their bill.

14 A I don't recall that.

15 Q I thought in your opening you mentioned an increase

16 that you got a bunch of complaints about.

17 A Oh, the end-user charge of 6.50, the federal end-user

18 charge has gone up since the MAG plan.

19 Q How much did that go up?

20 A It's gone from 3.50 to 6.50 for residences and it's

21 gone from 3.50 to 9.20 for multiline businesses.

22 Q Okay. So you understand that your own expert has

23 projected if you exclude transport costs that the

24 increase will only be 78 cents for your customers;

25 correct?

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1 A If that's his figures, yes.

2 Q You're not presenting any demographic information on

3 average income of your customers to this Commission,

4 are you?

5 A No.

6 Q And you have not done any independent or internal

7 survey of your customers as to what they would pay to

8 have the option of local number portability, have you?

9 A You know, I brought it up at our annual meeting in

10 April. We had about 10 percent of the members there.

11 It really wasn't a very palatable subject to those

12 people.

13 Q Did you represent the costs were going to be in excess

14 of \$10 a line if you included transport?

15 A I really didn't represent anything to them because

16 after the backlash we had from the last 50 cents on the

17 end-user charge I wasn't going to put any numbers to

18 that.

19 Q And for LNP you understand that your company can

20 recover its investment through an end-user surcharge?

21 A All of it, that's unclear to me today.

22 Q You collect high-cost support, switch support through

23 USAC, don't you?

24 A Yes, we do.

25 Q And in calculating that support in the future, you're

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1 going to include the LNP cost to the extent you're

2 allowed, wouldn't you?

3 A If it's allowable. I'd defer that to Mr. DeWitte. I'm

4 not sure.

5 Q Mr. DeWitte calculates your USAC support payments?

6 A Yes. His firm does.

7 MR. WIECZOREK: That's all I have.

8 MR. SMITH: Mr. Gerdes?

9 MR. GERDES: I just have one

10 question. Well, one topic.

11 CROSS-EXAMINATION

12 BY MR. GERDES:

13 Q Mr. Kroell, Santel has made a filing for a competitive

14 entry into the Mitchell exchange of Qwest; is that

15 correct?

16 A Actually Santel Communications has not.

17 Q Well, a company that you own or control has?

18 A A subsidiary company has, Sancom Incorporated, but

19 Santel the co-op will not be in Mitchell.

20 Q Right. And it's true, is it not, that you've entered

21 into an agreement with Midcontinent for LNP in the

22 Mitchell exchange and that negotiations are going on

23 right now for an Interconnection Agreement?

24 MR. LARSON: I'd object as

25 irrelevant.

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1 MR. SMITH: You have some questions

2 to establish relevancy?

3 MR. WIECZOREK: Could I -- it's not

4 my question, but I believe it's relevant because

5 the numbers assume training necessary for LNP and

6 if he's already agreed to LNP, I think it's a

7 relevant question that needs to be answered.

8 MR. SMITH: What I'm getting at is

9 this: I don't know how the companies are managed.

10 Are they managed as absolutely separate companies

11 or do they share common management, do they share

12 facilities? I think that's what I'm getting at.

13 MR. GERDES: I'll ask the questions.

14 Q Mr. Kroell, Sancom, is that a wholly-owned subsidiary

15 of Santel?

16 A Yes, it is.

17 Q And do the companies share management?

18 A Yes. I'm the only employee that works for both

19 companies.

20 Q I'll ask you the question, is it true that negotiations

21 are going on right now between Sancom and Midcontinent

22 to establish an Interconnection Agreement which would

23 include LNP?

24 MR. LARSON: I still object for

25 irrelevant.

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1 MR. SMITH: I'm going to overrule

2 and let him answer.

3 A Yes, we are.

4 MR. GERDES: Thank you. That's

5 all.

6 MR. SMITH: Ms. Wiest?

7 CROSS-EXAMINATION

8 BY MS. AILTS WIEST:

9 Q What is your current local rate?

10 A Our current local rate is 16.50.

11 Q For residential?

12 A For residential. Business is \$27.

13 MS. AILTS WIEST: That's all I have.

14 MR. SMITH: Commissioners, do you

15 have questions?

16 VICE CHAIR HANSON: I have just --

17 Mr. Kroell, can you tell us -- well, before I ask

18 that, how long have you been manager?

19 THE WITNESS: Since 1999. I was

20 plant manager before that. I've been there 29

21 years 8 months total.

22 VICE CHAIR HANSON: Okay. You were

23 probably around then when EAS was established with

24 Huron from Wolsey?

25 THE WITNESS: Yes. That happened



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1 when we bought the Wolsey exchange. It was part of  
2 the deal with US West.

3 VICE CHAIR HANSON: Okay. So did  
4 you -- you also have EAS with Howard?

5 THE WITNESS: Right.

6 VICE CHAIR HANSON: Were you a part  
7 of the establishment of EAS at any time when you  
8 went through the process of determining whether you  
9 were going to provide it or was it just part of a  
10 purchase?

11 THE WITNESS: I guess I was part of  
12 it. I got into the equipment end of it, that type  
13 of stuff. Probably not the politics of it.

14 But what happens in situations like that is  
15 telephone boundaries and school district boundaries  
16 are never the same. That's what drives EAS. And,  
17 of course, we survey the members and say it's going  
18 to cost you more to do this if you want to do it.

19 And in our case the Artesian and Fedora towns  
20 are all under the 527 office code. They're the  
21 only ones that can call Howard, nobody else.  
22 Wolsey is 883. They can call Huron. They're the  
23 only ones, nobody else. And it's basically for the  
24 school boundary, telephone boundary situation.

25 VICE CHAIR HANSON: So you didn't go

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1 through it. Did I understand you correctly you  
2 didn't go through a process of determining, for  
3 instance, other exchanges, Forestburg or something  
4 of that nature and deciding should they also have  
5 EAS with Huron? Have you gone through that  
6 process?

7 THE WITNESS: You know, that was  
8 talked about, but that's about the time that the  
9 Bell system hit on bad times and any negotiations  
10 that were going on with other EAS routes they just  
11 terminated and said we're not going to talk about  
12 those anymore.

13 VICE CHAIR HANSON: Okay. Thank  
14 you.

15 COMMISSIONER BURG: Can I just ask a  
16 follow-up. Are those two-way or one-way?

17 THE WITNESS: They're two-way.

18 COMMISSIONER BURG: Wolsey and  
19 Howard are both two-way?

20 THE WITNESS: Yeah.

21 COMMISSIONER BURG: Thank you.  
22 That's all I have.

23 CHAIRMAN SAHR: Good morning, Gene.  
24 Over the past week or so we've heard some  
25 comparisons to broadband deployment and if you

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1 answered this in your prefiled testimony or if it's  
2 been answered here today, I apologize but I'm just  
3 trying to evaluate if there's any sort of  
4 appropriate comparison at all in how we should  
5 analyze that. So I'm going to ask you a few  
6 questions about broadband deployment.

7 THE WITNESS: Sure.

8 CHAIRMAN SAHR: With the broadband  
9 deployment, that is something that would be  
10 available to every single -- well, within a certain  
11 geographic bounds.

12 THE WITNESS: Yes.

13 CHAIRMAN SAHR: That is something  
14 that's going to be available and usable by every  
15 single customer that's within the certain proximity  
16 to your technology; is that correct?

17 THE WITNESS: When we are finished  
18 with our current construction plan every subscriber  
19 in our 10 exchanges will have access to broadband.

20 CHAIRMAN SAHR: And then when we  
21 look at -- and this is the part that I apologize if  
22 you answered this elsewhere but when we look at the  
23 charge that is paid by the customer, how much of  
24 that are they paying the actual full cost of  
25 deployment and how much of that is the cost of

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1 deployment I guess socialized among all the  
2 members? Do you have any idea how that breaks  
3 down?

4 I guess what I'm asking is, is your monthly  
5 broadband charge, is that pretty much the cost to  
6 Santel, or a little bit of a mix?

7 THE WITNESS: It's a little bit of a  
8 mix. But, you know, my philosophy is you can't  
9 make money in a cooperative off of everything you  
10 do with your customers, you know, the members.  
11 Very passionate about that on vertical services.

12 The first switch we put in cost us \$6,600 for  
13 the software to do our first calling features, call  
14 waiting, three-way calling, all of that kind of  
15 stuff.

16 Our company couldn't see why we ought to  
17 charge 3 and a half, 4 bucks a month for that.  
18 After all, they own the company. Our board would  
19 rather have 500 people using something a dollar a  
20 month than 100 people using it at \$5 a month.  
21 That's just their philosophy.

22 CHAIRMAN SAHR: In my experience  
23 from my time spent in the area that you serve and  
24 in the areas just maybe outside your service  
25 territory or where you're serving more and more

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1 often where you're moving into on a competitive  
 2 basis is I personally get a lot of contacts from  
 3 people who are not within your incumbent area who  
 4 would like you to bring broadband services to them.  
 5 Is that something that you've experienced as  
 6 well is a high demand fairly close to your service  
 7 territories?  
 8 THE WITNESS: That's the reason for  
 9 actually activating our subsidiary company, Sancom  
 10 in Mitchell. We have had hundreds and hundreds and  
 11 hundreds of requests.  
 12 We do dial-up Internet now and wireless but  
 13 they want more. They listen to our radio ads.  
 14 We've got 30 vertical services on the switch that's  
 15 available to them, you know, and it's just an  
 16 ala carte deal. They pick what they want. They  
 17 take several, we give them a discount, you know.  
 18 CHAIRMAN SAHR: So in comparison to  
 19 LNP forecast going forward you've got hundreds  
 20 wanting broadband, you've got 12 or whatever number  
 21 we're going to peg it at going forward. It seems  
 22 like the demand for broadband is much higher.  
 23 THE WITNESS: Yes. Because they  
 24 can't get it any other place besides, you know,  
 25 wireless maybe, fixed wireless. But it's a wire

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1 product.  
 2 CHAIRMAN SAHR: So in comparison --  
 3 because there are limitations with wireless  
 4 broadband even at certain higher speeds; correct?  
 5 Let me ask compared to wireline based broadband.  
 6 THE WITNESS: You know, the current  
 7 fiber technology today we're talking 75 megabits to  
 8 the premise. You can do a whole lot of things on  
 9 that.  
 10 CHAIRMAN SAHR: So if we look at  
 11 potential impact to consumers as far as having an  
 12 additional charge and perhaps even a bigger picture  
 13 of public interest type of analysis, it sounds like  
 14 you would say that if there are some sort of  
 15 socialized charges involved with broadband as  
 16 opposed to portability, that there's a lot more  
 17 demand and interest and reason for your company to  
 18 incur those costs and even sometimes pass them  
 19 along to consumers on the broadband side as opposed  
 20 to the LNP side? Is that a fair statement?  
 21 THE WITNESS: That's a fair  
 22 statement.  
 23 CHAIRMAN SAHR: Do you have anything  
 24 to add to that?  
 25 THE WITNESS: Sanborn County, if you

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1 look in the data census bureau records, is not  
 2 exactly one of the most plush counties in the  
 3 state. To be exact, as far as people in the  
 4 poverty level we're probably about number 4.  
 5 Hanson County is 3. I have no idea who number 1  
 6 and 2 are. In the national news about six months  
 7 ago Dan Rather had a story about Hutchinson County,  
 8 South Dakota has more people per capita 85 years  
 9 and older than any other county in the state.  
 10 Guess who serves that county? Santel.  
 11 CHAIRMAN SAHR: And I assume that  
 12 based on those demographics you would say that any  
 13 additional charges are a challenge for people to  
 14 bear?  
 15 THE WITNESS: Hardship, small towns.  
 16 You know, we've got one exchange with 150 lines in  
 17 it. We've got a lot of people involved with ag.  
 18 That's their main business. Quite a few of them  
 19 are, you know, in a depressed type of economy.  
 20 Their product isn't worth anything.  
 21 CHAIRMAN SAHR: And outside of those  
 22 type of counties, though, you have had some success  
 23 entering in as a competitor in certain markets?  
 24 THE WITNESS: Yes.  
 25 CHAIRMAN SAHR: Do you know as far

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1 as the Commission sitting here evaluating, you  
 2 know, what's the appropriate decision for each  
 3 petition and under each individual circumstances,  
 4 how would you suggest that we balance the challenge  
 5 that you are -- have kind of a demographic that  
 6 perhaps is going to have a difficult time paying  
 7 for additional costs, at the same time you are  
 8 really bringing some state-of-the-art services and  
 9 some rather -- I don't know if I want to say  
 10 upscale but into some communities where they can  
 11 bear the costs of these type of things, not just  
 12 broadband but also LNP, do you have any suggestion  
 13 on how we kind of balance that dichotomy between  
 14 your incumbent area and the competitive areas where  
 15 perhaps you might have some people who can afford  
 16 to or be willing to bear the cost of this type of  
 17 surcharge?  
 18 THE WITNESS: As I look in the  
 19 mirror I absolutely have not one reason personally  
 20 to port my number to a wireless phone. My wireless  
 21 phone, everybody's got that number. My wife's  
 22 wireless phone, everybody's got that number. Why  
 23 would I want to change that to a number nobody  
 24 knows, you know.  
 25 Maybe if we were in an area where we had a lot

1113

1 of young people coming in that -- you know, I can't  
 2 imagine why you'd go to a landline company to get a  
 3 number and then the next week go port it to a  
 4 wireless company. It just doesn't make sense.  
 5 Minneapolis, maybe Sioux Falls might be the  
 6 way they do it, but I still don't understand why.  
 7 If I want a wireless phone, I want to go to  
 8 Cellular One or Verizon or whoever the provider is  
 9 and I'm going to get the number from them and sign  
 10 up and I'm still going to give that to everybody.  
 11 In my home today when I'm on the road I call  
 12 forward my number to my cell phone. That way I  
 13 don't miss any calls from the office or at home.  
 14 When I call to the voice mail in my office it  
 15 jingles my cell phone. You know, it's just a great  
 16 network. Spending a lot of money to change it just  
 17 does not make sense to me.  
 18 CHAIRMAN SAHR: Do you think there's  
 19 any differences between the situation involving  
 20 Western Wireless or Cellular One and a situation  
 21 involving a Midcontinent where you have a  
 22 wireline-to-wireline competitor?  
 23 THE WITNESS: You know, I'd look at  
 24 it this way: If we're in a situation where we're  
 25 porting numbers back and forth between a wireline

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1 company and a wireline company, we've got the  
 2 equipment in there to do it, why wouldn't we  
 3 include wireless companies in the same arrangement,  
 4 you know.  
 5 It would really not much make sense to me to  
 6 have Midcontinent and us porting numbers back and  
 7 forth or Qwest and us porting numbers back and  
 8 forth and when a wireless company comes along say  
 9 oh, no, we're not going to port your stuff. That's  
 10 not the way it works.  
 11 CHAIRMAN SAHR: Thank you.  
 12 MR. SMITH: Following up on that and  
 13 Mr. Gerdes' questions, is the subsidiary company  
 14 the CLEC company?  
 15 THE WITNESS: Yes.  
 16 MR. SMITH: Is that a part of this  
 17 petition or is it excluded from the petition?  
 18 THE WITNESS: No.  
 19 MR. SMITH: Okay. So the whole CLEC  
 20 operation you're not requesting suspension with  
 21 respect to your CLEC; is that correct?  
 22 THE WITNESS: Right. We're not  
 23 operating -- you know, of course one thing that  
 24 we're looking at from here is we need a Certificate  
 25 of Authority.

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1 MR. SMITH: Right. We'll have to  
 2 work on that.  
 3 THE WITNESS: You guys need to work  
 4 on that really.  
 5 MR. SMITH: We've got to get out of  
 6 this room long enough.  
 7 CHAIRMAN SAHR: We've got a quorum.  
 8 MR. SMITH: Do I hear a Motion?  
 9 Thank you. Mr. Larson, redirect?  
 10 MR. LARSON: Thank you, Mr. Smith.  
 11 THE WITNESS: If you do, you're  
 12 walking home.  
 13 MR. LARSON: These are easy.  
 14 REDIRECT EXAMINATION  
 15 BY MR. LARSON:  
 16 Q Mr. Wiczorek asked you about if you had obtained any  
 17 other estimates from any other consultants on the cost  
 18 of this. Why would you do that?  
 19 A To just -- you got two choices. You know, spend your  
 20 money or take it out and give it back to customers.  
 21 You can take it out to a parking lot and set it on  
 22 fire. You know, paying for one study is one thing.  
 23 Paying for five is something else. Like I said, I'm  
 24 passionate about watching the dollars go back to our  
 25 consumers, you know.

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1 Q Are you confident with Mr. DeWitte and his company's  
 2 figures?  
 3 A Yes. They do lots of stuff for us, engineering, cost  
 4 separation studies.  
 5 Q And in the situation where if you were forced to  
 6 provide this LNP, you would want to do it in a quality  
 7 fashion, would you not?  
 8 A Absolutely.  
 9 Q Gene, why should your subscribers pay for the cost to  
 10 transport this?  
 11 A That's a good point. Years ago on the Federal  
 12 Communications Commission people like Reed Hunt were in  
 13 there. After deregulation they said the cost-causer  
 14 shall be the cost-payer. Today it's stick it to the  
 15 end-user. You know, that's just exactly what's  
 16 happening. And, you know, we've got people that can't  
 17 afford that.  
 18 Q And, again, if you were to provide LNP, the system that  
 19 Vantage Point has created would work for Santel?  
 20 A Sure.  
 21 Q Do you now route traffic outside of your exchange area  
 22 as toll traffic?  
 23 A Yes.  
 24 Q And you get access charges for that?  
 25 A Yep.

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- 1 Q And are those access charges incorporated as part of  
2 your revenue stream?  
3 A Yes, they are.  
4 Q And if you had to now change your whole system, how  
5 would that affect your company?  
6 A The money that goes back to the consumers is just going  
7 to be less and less.  
8 Q And to reiterate, you have had zero requests for this  
9 kind of LNP; is that correct?  
10 A Right.

11 MR. LARSON: I wanted to ask, it is  
12 my understanding that what's been labeled Venture  
13 Exhibit No. 4, which was the letter of June 18 from  
14 Commissioner Powell was introduced, that would  
15 apply to our Docket, would it not?

16 MR. SMITH: It would. Many of the  
17 exhibits that are in here are going to apply to all  
18 of the LNP Dockets and I'm not going to go through  
19 the whole list of them but that certainly was  
20 applicable to all Dockets.

21 MR. LARSON: I think that's all the  
22 questions I have.

23 MR. SMITH: Mr. Coit?  
24  
25

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- 1 companies that he's testifying on behalf of in this  
2 Docket?  
3 A Actually, not.  
4 Q So you didn't know the fact that he had projected  
5 1.5 million the first year to James Valley for  
6 transport costs, but James Valley's not going to incur  
7 any of those costs to provide LNP with Western  
8 Wireless?  
9 A I'm not aware of that.  
10 Q You said everybody's got your wife's cell phone number  
11 and everybody's got your cell phone number; right?  
12 A Right.  
13 Q The number's important to you?  
14 A As I use it in the business, yes.  
15 Q Okay. So --  
16 A Personally, I could care less.  
17 Q Yeah. But if you wanted to switch cell phone  
18 providers, you'd like the ability to take that number  
19 with you, wouldn't you?  
20 A You know, switching from wireless carriers to wireless  
21 carriers is one thing. Switching from landline to  
22 wireless is another breed of cats.  
23 Q So is the answer to my question yes, that you'd like to  
24 take that number with you? I'm just asking you to  
25 answer the question.

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# CROSS-EXAMINATION

1 BY MR. COIT:  
2

3 Q Hello, Gene.

4 A Good morning.

5 Q You talked a little bit about the differences, I guess,  
6 between providing LNP for -- there was a question  
7 regarding provisioning of LNP for wireline to wireline  
8 versus wireline to wireless.

9 Would you agree that there are differences in  
10 transport costs associated with providing it wireline  
11 to wireline versus providing it wireline to wireless?

12 A Absolutely.

13 Q And that's because of differences in service areas, is  
14 it not?

15 A The way the networks are laid out between companies,  
16 yeah.

17 Q So there certainly are differences in cost?

18 A Yeah.

19 MR. COIT: Yeah. Thank you. That's  
20 all I have.

21 MR. SMITH: Mr. Wieczorek?

# RECROSS-EXAMINATION

22 BY MR. WIECZOREK:  
23

24 Q Did you know that Mr. DeWitte proposed the same type of  
25 routing arrangement, transport arrangement for all the

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- 1 A I'm going to give you a yes because I actually don't  
2 know.  
3 Q Well, it would be convenient for you to --  
4 A It would be convenient, yes.  
5 Q Okay.  
6 MR. WIECZOREK: That's all I have.  
7 MR. SMITH: Mr. Gerdes?  
8 MR. GERDES: No questions.  
9 MS. AILTS WIEST: No questions.  
10 MR. COIT: No questions.  
11 MR. SMITH: Do the Commissioners  
12 have any final questions?  
13 You're excused.  
14 THE WITNESS: Thank you.  
15 MR. SMITH: Did you have another  
16 question, Mr. Larson?  
17 MR. LARSON: No.  
18 MR. SMITH: Thank you, Mr. Kroell.  
19 Mr. Larson, you may call your next witness.  
20 MR. LARSON: John DeWitte.  
21 MR. SMITH: Mr. DeWitte, you're  
22 still under oath from your previous swearing in.  
23 Please proceed.  
24  
25

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1 DIRECT EXAMINATION

2 BY MR. LARSON:

3 Q Would you please state your name and address for the

4 record, please?

5 A John Michael DeWitte. My address is 1801 North Main,

6 Mitchell, South Dakota.

7 Q John, could I have you look at what has been marked as

8 Santel Exhibit 2 and Santel Exhibit 3 and tell me is

9 that your direct prefiled testimony and rebuttal

10 testimony?

11 (Witness examines documents)

12 A Yes. It appears to be.

13 Q And did you prepare those documents?

14 A Yes, I did.

15 Q And can you briefly describe your qualifications to

16 testify?

17 A My qualifications are that I'm a registered

18 professional engineer in the State of South Dakota and

19 several other states as well. I've got a degree in

20 computer engineering from Iowa State University and a

21 master's in business administration from Kennesaw State

22 College. I've also got over 20 years of industry

23 experience with telecom equipment manufacturers and in

24 the consulting field.

25 Q And do you have any corrections to those exhibits?

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1 A The only corrections that I had were in my

2 supplementing rebuttal where I needed to -- there was a

3 missing period and my heading needed to go down one

4 line --

5 MR. SMITH: May I step in here one

6 minute. Because you weren't here, Jeff, that with

7 respect to the exhibit marked Santel 3 I believe

8 that's been admitted already. That's been admitted

9 as --

10 MR. WIECZOREK: Interstate 4, I

11 believe.

12 MR. SMITH: ITC 4 so that's in the

13 record and all the foundation relative to that's

14 been done. And I'm sorry. I believe Exhibit ITC

15 4B was admitted this morning too and that is

16 already admitted with respect to all of the Dockets

17 to which it pertains. So really in terms of

18 offering and admitting I think we're only left with

19 No. 2; is that true?

20 MR. WIECZOREK: Yeah. As I

21 understand it, what has been marked as 3 is

22 identical to what he filed as ITC 4 and then we

23 received 4A and 4B today as modifications to that.

24 MR. SMITH: Is that correct?

25 THE WITNESS: That is correct.

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1 MR. SMITH: Okay. So those exhibits

2 are in the record.

3 Q Let me ask then with regard to Santel Exhibit 2, the

4 one that has not been offered, if I were to ask you all

5 of those questions under direct, would you answer the

6 same today?

7 A Yes, I would.

8 Q And do you then have any additional summary comments of

9 your testimony as it relates to this that you'd like to

10 make now?

11 A To summarize, I'd like to just, you know, talk about

12 the methods and procedures that we used to calculate

13 all of the various costs over the past week. You know,

14 we've talked about different methods that could be

15 used. Obviously, you know, Western Wireless has talked

16 about a method that could be used via Qwest. In my

17 direct we talked about the way to use direct trunks.

18 And, of course, there's other -- there are other

19 options that are obviously out there. You know, one of

20 which that hasn't been explored yet is the use of SDN

21 communications as a possible alternative.

22 So I think that, you know, what we've looked

23 at and talked about over the past few weeks is, yes,

24 there are several different options, however, without

25 having any firm negotiations or, you know, any other

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1 agreements in place, you know, the one thing that still

2 holds true is that if you look at the reciprocal

3 compensation agreement and Interconnection Agreements

4 that are in place today, you know, the direct

5 connection DS-1 alternative will work and will serve

6 the costs. And I believe that, you know, we've

7 discussed that it, you know, certainly has, you know, a

8 large transport component to that. However, in absence

9 of any other firm negotiations, you know, those numbers

10 do still stand.

11 MR. LARSON: At this time then I

12 would offer Santel Exhibit 2.

13 MR. WIECZOREK: I have no objection.

14 MR. COIT: No objection.

15 MS. AILTS WIEST: No objection.

16 MR. SMITH: I'm assuming since

17 Mr. Gerdes is not here he doesn't object. Santel 2

18 is admitted.

19 MR. LARSON: That's all the

20 questions I have.

21 MR. SMITH: Thank you. Mr. Coit, do

22 you have any questions?

23 MR. COIT: No. No cross.

24 MR. SMITH: Mr. Wieczorek?

25 MR. WIECZOREK: I have just a couple

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1 of matters. One of the ones I'd like to clarify  
 2 and I talked to Mr. Larson about this before the  
 3 hearing began, there was an agreement any of the  
 4 questions I asked for general cross-examination  
 5 last week in the cases when Mr. DeWitte testified  
 6 last week can be applied to this Docket. And I do  
 7 know that Mr. Larson has obtained at least that  
 8 part of the transcript from last week already and  
 9 reviewed it. I just want to make sure that  
 10 appeared on the record. That's my understanding of  
 11 what the agreement was.

12 MR. LARSON: That's correct.

13 MR. WIECZOREK: So I don't want to  
 14 just replot old ground to establish a record.

15 MR. SMITH: In addition to that it's  
 16 at least my recollection that Darla Rogers was  
 17 appearing before Santel throughout that portion of  
 18 the proceeding.

19 MR. LARSON: Correct. With I  
 20 believe Mr. Williams and Mr. DeWitte she appeared  
 21 on my behalf.

22 MR. SMITH: Thank you.

23 CROSS-EXAMINATION

24 BY MR. WIECZOREK:

25 Q My questions are going to be short. We went through

1 A That is correct.

2 Q And I believe Mr. Kroell deferred somewhat to you.  
 3 This is the only cost analysis that you have done;  
 4 correct?

5 A That is correct.

6 Q Okay.

7 MR. WIECZOREK: That's all I have.

8 MR. SMITH: Thank you. Did

9 Mr. Gerdes --

10 COMMISSIONER BURG: He left.

11 MR. SMITH: Oh, he's gone. Okay.

12 I'm sorry. Ms. Wiest?

13 MS. AILTS WIEST: No questions.

14 MR. SMITH: Commissioners, questions  
 15 of Mr. DeWitte?

16 VICE CHAIR HANSON: No.

17 COMMISSIONER BURG: I don't.

18 MR. SMITH: I just had maybe one.

19 In terms of just the architecture of the Santel  
 20 system, is that a host remote or repeater system?

21 THE WITNESS: Yeah. Actually Santel  
 22 uses a DMS-10 Nortel Networks configuration and the  
 23 host office, the host DMS-10 is in Woonsocket. All  
 24 the other exchanges are remotes.

25 MR. SMITH: Does that architecture

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1 several of the companies extensively last week, and you  
 2 have calculated the cost using the same methodology  
 3 that you did for all the other companies; correct?

4 A That is correct.

5 Q And talking about the points of interconnection, while  
 6 Sprint PCS has a license, it is not currently operating  
 7 in the Santel area; correct?

8 A That is correct.

9 Q But in your cost analysis you've included  
 10 transport-related costs for Sprint PCS even though it  
 11 does not operate in the area at this time?

12 A That is correct.

13 Q And so I understand it, for the nonrecurring transport  
 14 for Sprint PCS alone, that's \$50,000, 5,000 times 10?

15 A Let me look at the exhibit. That sounds correct. I  
 16 believe 20,000 is what we had for the nonrecurring for  
 17 that piece -- or 200,000 for the total.

18 Q Right. 200,000 is the total for Exhibit 4B for  
 19 nonrecurring. It's sitting right there in front of  
 20 you, John.

21 A Okay. Thanks. Right. So since there's four carriers,  
 22 50,000 would be correct.

23 Q And so also one-fourth of the costs for the monthly  
 24 nonrecurring would be attributable to Sprint based on  
 25 your projection; correct?

1 lend itself to what we've called the James Valley  
 2 solution?

3 THE WITNESS: Yes. Except one of  
 4 the key differences between this configuration and  
 5 the James Valley configuration is that the -- in  
 6 Santel's case they don't have any combined local  
 7 calling areas, if you will, so, you know, each  
 8 exchange, you know, is its own local calling area.

9 So that aside, you know, which is why we had,  
 10 you know, the separate DS-1s, et cetera, but in  
 11 terms of the architecture with James Valley and  
 12 James Valley being able to use one DS-1 and then  
 13 there's other agreements in place, how to get to  
 14 the other local calling areas, then, yes, it would  
 15 lend itself to that.

16 MR. SMITH: Thank you. Where are  
 17 we? I guess we're back to Mr. Larson. Do you have  
 18 any redirect?

19 MR. LARSON: I have no other  
 20 redirect.

21 MR. WIECZOREK: Done.

22 MR. SMITH: I think you're excused.

23 THE WITNESS: Mr. Chairman,  
 24 Commissioners, staff, thank you.

25 CHAIRMAN SAHR: Thank you.

1 MR. SMITH: Thanks for your  
2 testimony. Do you want to proceed -- is your case  
3 in chief concluded then, Mr. Larson?  
4 MR. LARSON: It is, Mr. Smith.  
5 MR. SMITH: Tal, do you want to  
6 proceed immediately with Mr. Williams?  
7 MR. WIECZOREK: I'm willing if the  
8 Commission is.  
9 MR. SMITH: Let's go.  
10 (Exhibit WWC 19 is marked for identification)  
11 MR. WIECZOREK: What I've handed out  
12 that's been marked as Western Wireless Exhibit 19.  
13 For the purposes of summary this is the same format  
14 that we've done for every company.

15 DIRECT EXAMINATION

16 BY MR. WIECZOREK:

17 **Q** Mr. Williams, could you explain to the Commission what  
18 Western Wireless Exhibit 19 is?  
19 **A** Yes. This is a rendition of the different estimates  
20 that have been made for number portability  
21 implementation costs and it includes original  
22 Petitioner and revised Petitioner estimates as well as  
23 Western's original estimates and revised estimates  
24 based upon the Petitioner's forecasted port volume and  
25 then the far right-hand column contains Western's

1 accurate?  
2 MR. WIECZOREK: That's correct.  
3 CROSS-EXAMINATION  
4 BY MR. LARSON:  
5 **Q** Mr. Williams, with regard to this exhibit it's my  
6 understanding what you've done is you go across this to  
7 the final column that's Western revised estimates is  
8 you're getting those figures by having the Qwest trunk  
9 that's now one-way become two-way. Is that accurate?  
10 **A** That relates to the transport costs, yes.  
11 **Q** As it relates to the transport costs?  
12 **A** That's correct.  
13 **Q** Who owns that trunk?  
14 **A** Well, I believe it was a meet point facility so both  
15 carriers are responsible for a portion.  
16 **Q** But Qwest owns it, do they not?  
17 **A** Well, Qwest owns the portion to the meet point.  
18 **Q** And it would require any carrier including Santel to  
19 negotiate some kind of an agreement in order to change  
20 the use of that; correct?  
21 **A** It may or may not. The Qwest facilities are available  
22 through tariff, and there are also many Interconnection  
23 Agreements with Qwest in the state that are also  
24 available for opt-in.  
25 **Q** Santel would have to negotiate some kind of an

1 estimates based on Western's forecasted port volume.  
2 MR. WIECZOREK: I would move for the  
3 admission of Western Wireless 19.  
4 MR. LARSON: I have no objection.  
5 MR. COIT: No objection.  
6 MS. AILTS WUEST: No objection.  
7 MR. SMITH: Western Wireless 19 is  
8 received.  
9 MR. WIECZOREK: I would offer  
10 Mr. Williams for cross-examination.  
11 MR. COIT: Jeff, have you got any  
12 questions?  
13 MR. SMITH: Do you need a minute?  
14 MR. LARSON: Yeah. I'd like a  
15 minute to go over this with my witness.  
16 MR. SMITH: Do you want to take a  
17 10-minute break and let him review the document and  
18 we'll reconvene at a quarter to 11:00?  
19 (A short recess is taken)  
20 MR. SMITH: We're back on the  
21 record. The hearing is reconvened in the Santel.  
22 Mr. Larson, please proceed with  
23 cross-examination.  
24 MR. LARSON: Thank you. I believe  
25 this was Western Wireless 19, the exhibit; is that

1 agreement with them; correct?  
2 **A** Or adopt an existing agreement or order out of the  
3 tariff.  
4 **Q** You looked at this. Did you consider -- I mean, SDN in  
5 South Dakota was apparently founded for the purpose of  
6 consolidating some of these services and creating  
7 efficiencies and it's available to these ILECs. Did  
8 you consider that in a solution to the LNP problem?  
9 **A** Yes, we did. We had some discussions with SDN going  
10 back nine months ago or so regarding their willingness  
11 and interest in doing a transit function similar to  
12 this. They haven't been able to formulate a price or a  
13 proposal to us for doing that so we -- you know, we  
14 continue to use the Qwest solution to transit local  
15 traffic to these telephone companies and what we've  
16 proposed here is the corollary to that for the  
17 telephone companies to transit local traffic to us.  
18 **Q** And if there were end-user charges based on any of  
19 these figures that are in evidence, can they be  
20 included in the cost study?  
21 **A** Well, we had a discussion earlier in this proceeding  
22 regarding whether these numbers were truly reflective  
23 of end-user -- potential end-user surcharges that could  
24 be recoverable through the FCC rules. And as I  
25 understand it, the consensus was that these are not

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1 reflective necessarily of the end-user surcharges.  
 2 **Q** If they're not reflective they could not be recovered  
 3 then?  
 4 **A** Well, I believe the costs here are -- the costs  
 5 represented on this sheet with the exception  
 6 potentially of the transport costs are recoverable  
 7 under the NECA methodology for filing an end-user LNP  
 8 surcharge tariff with the FCC.  
 9 MR. LARSON: That's all the  
 10 questions I have.  
 11 MR. SMITH: I can't remember if I've  
 12 asked you, Rich. Do you have any questions?  
 13 MR. COIT: I don't have any  
 14 questions.  
 15 MR. SMITH: Ms. Wiest, any  
 16 questions?  
 17 MS. AILTS WIEST: No questions.  
 18 MR. SMITH: Commissioners, any  
 19 questions for Mr. Williams?  
 20 COMMISSIONER BURG: I have none.  
 21 VICE CHAIR HANSON: No.  
 22 MR. SMITH: The one -- the only  
 23 question I have and it's not really maybe a  
 24 question but if you recall the other day at the end  
 25 of the day Commissioner Hanson asked you a question

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1 about the Qwest transport and the transport costs,  
 2 which Chairman Sahr then had the reporter read back  
 3 at the end of the day. Is that testimony  
 4 applicable to Santel?  
 5 THE WITNESS: Yeah. I mean, I would  
 6 believe it to be applicable.  
 7 MR. SMITH: Thank you.  
 8 Mr. Wieczorek?  
 9 MR. WIECZOREK: I just have one.  
 10 REDIRECT EXAMINATION  
 11 BY MR. WIECZOREK:  
 12 **Q** The existing SDN facilities could be used to route this  
 13 traffic; correct?  
 14 **A** Well, yeah. In fact, an option to be considered is  
 15 that these telcos have existing toll trunks via SDN.  
 16 And for very low volumes of traffic it might make sense  
 17 to route traffic via the existing toll trunks with just  
 18 a switch translation modification and have no -- in  
 19 essence no facilities investment and then have the  
 20 telco absorb the -- whatever SDN would charge for  
 21 processing that call.  
 22 The other option would be to establish SDN as  
 23 a transit provider for local traffic in addition to the  
 24 toll transit they currently provide. And that would be  
 25 an option. Obviously SDN would have to be a willing

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1 participant.  
 2 **Q** I guess I have one follow-up from that. In that  
 3 scenario the transport-related costs that you have in  
 4 your last column, would they increase?  
 5 **A** Not necessarily.  
 6 **Q** They could decrease or increase?  
 7 **A** Well, they could decrease or increase. In order to  
 8 stay the same SDN would have to adopt a rate or post a  
 9 rate that was equivalent to what Qwest had in the  
 10 marketplace.  
 11 **Q** And just so it's clear, the transport-related costs  
 12 that you have in the last column are based on Qwest's  
 13 posted rates?  
 14 **A** Yes. These are the rates we pay for transiting its  
 15 traffic today.  
 16 MR. WIECZOREK: That's all.  
 17 MR. SMITH: Do you have any recross?  
 18 MR. LARSON: No.  
 19 MR. SMITH: Mr. Coit?  
 20 MR. COIT: No.  
 21 MS. AILTS WIEST: No.  
 22 MR. SMITH: Any last Commissioner  
 23 questions of Mr. Williams?  
 24 VICE CHAIR HANSON: No, thank you.  
 25 MR. SMITH: Thank you, Mr. Williams.

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1 I think you're finally done.  
 2 THE WITNESS: Thank you for the  
 3 opportunity to speak here.  
 4 MR. SMITH: You're welcome.  
 5 Mr. Wieczorek, do you have any further witnesses?  
 6 MR. WIECZOREK: I do not.  
 7 MR. SMITH: Do either of the other  
 8 counsel have any witnesses?  
 9 MR. COIT: No witnesses.  
 10 MS. AILTS WIEST: No.  
 11 MR. SMITH: Do you have any rebuttal  
 12 witnesses?  
 13 MR. LARSON: Let me talk with  
 14 Mr. DeWitte just a second. And it will be just a  
 15 second.  
 16 MR. SMITH: Okay.  
 17 (Discussion off the record)  
 18 MR. LARSON: No, we do not have any  
 19 further testimony.  
 20 MR. SMITH: Thank you. That  
 21 concludes the hearing in Docket TC 04-077, and it  
 22 also concludes the evidentiary portion of the  
 23 hearing in the LNP Dockets, suspension Dockets.  
 24 Shall we broach the subject of -- let me ask  
 25 you this: My assumption -- given the similarity of



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1 this to some of the other recent cases is that  
2 closing arguments, if any, are probably more  
3 appropriately done at the conclusion of the  
4 briefing portion of the proceeding? Do all counsel  
5 concur, assuming you even want to have one that's  
6 verbal as opposed to just the written briefs?

7 MR. WIECZOREK: Frankly, given the  
8 fact that all counsel aren't here I wouldn't intend  
9 on giving any closing since the other counsel  
10 aren't here.

11 MR. SMITH: Right. Any thoughts --  
12 a lot of the counsel aren't here. Would you prefer  
13 in terms of setting up a briefing schedule to wait  
14 until -- maybe do that via conference call or  
15 something where everyone can be on the call and we  
16 can adjust everyone's schedule?

17 MR. COIT: I think that's a good  
18 idea. I think that the one comment that I would  
19 have on a briefing schedule is we've got a couple  
20 of these Dockets, Kennebec and Santel specifically,  
21 that are under a tighter time frame in terms of  
22 this Commission getting the decision out. And I  
23 would prefer that when we do start talking about  
24 briefing that we keep that in mind. But I think  
25 working it out via teleconference is a lot better

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1 than us sitting here the next half-hour and talking  
2 about it.

3 MR. SMITH: There's a lot of people  
4 that aren't here. It's obviously going to have to  
5 be a fairly compressed time frame at least with  
6 respect to those two companies. But I would  
7 presume that most of the issues that the parties  
8 will want to discuss in their briefs are going to  
9 apply just as much to Kennebec as they are to all  
10 the other companies.

11 MR. COIT: That is true, but --  
12 yeah. I mean, those first briefs are going to be  
13 important briefs.

14 MR. SMITH: I guess we're going to  
15 have to do this with all counsel present, but I  
16 guess my assumption is -- I mean, we're not  
17 planning on submitting each -- each party  
18 submitting 22 briefs, are we?

19 MR. COIT: That wasn't my plan.

20 MR. SMITH: Okay. My assumption was  
21 we would have one brief from each party -- I mean,  
22 one brief with respect to at each stage of the  
23 briefing handling all the cases.

24 MR. WIECZOREK: It had been my  
25 assumption what I'd do is brief it and within one

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1 brief break out specific factual issues for each  
2 one probably in order of the Docket or  
3 alphabetically, figure out some approach. That  
4 probably is the easiest to follow.

5 MR. SMITH: Okay. Why don't we try  
6 to set up a conference call maybe next week in  
7 order to discuss or finalize the briefing schedule.

8 One last thing on the record before we go off  
9 the record, what's your prognosis as to when the  
10 transcript would be completed?

11 (Discussion off the record)

12 MR. SMITH: The hearing in the LNP  
13 suspension Dockets is concluded and we're  
14 adjourned.

15 (The proceedings are adjourned)

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1 STATE OF SOUTH DAKOTA )

2 :SS CERTIFICATE

3 COUNTY OF HUGHES )

4

5 I, CHERI MCCOMSEY WITTLER, a Registered  
6 Professional Reporter and Notary Public in and for the  
7 State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed  
9 shorthand reporter, I took in shorthand the proceedings  
10 had in the above-entitled matter on the 21st day of  
11 June through the 1st day of July 2004, and that the  
12 attached is a true and correct transcription of the  
13 proceedings so taken.

14 Dated at Pierre, South Dakota this 5th day  
15 of July 2004.

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*Cheri M. Wittler*  
Cheri McComsey Wittler,  
Notary Public and  
Registered Professional Reporter

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1062:1 1062:5 1062:16 1064:19 1065:  
14 1067:16 1067:23 1068:8 1068:11  
1076:24 1085:24 1096:8 1096:16  
1097:5 1097:19 1097:22 1097:25  
1098:6 1098:8 1109:12 1109:25 1109:  
25 1110:3 1112:20 1112:20 1112:22  
1113:4 1113:7 1113:20 1114:3 1114:8  
1118:8 1118:11 1119:8 1119:20 1119:  
20 1119:22 1123:15 1129:12 1129:18  
1130:3 1130:7 1130:25

## Wireless's

[25] 781:8 781:11 781:14 786:13 786:  
15 804:23 805:4 805:14 805:19 806:9  
807:5 807:6 876:11 911:5 929:8 948:  
24 955:6 955:9 955:14 962:11 966:4  
996:3 997:12 1019:9 1062:20

## Wireline

[84] 785:18 785:23 786:2 786:8 787:  
10 800:3 800:3 800:13 800:13 800:19  
800:19 819:16 827:22 852:18 858:4  
881:17 887:13 887:13 887:16 887:16  
887:16 888:11 888:11 888:15 888:15  
889:8 890:19 891:5 897:16 898:19  
898:20 900:14 900:15 900:23 900:24  
903:1 903:1 903:7 903:8 903:8 904:  
18 904:18 906:22 906:22 909:17 909:  
21 909:21 910:17 911:7 911:9 913:11  
913:11 916:7 918:11 918:15 918:15  
969:21 977:1 977:1 979:13 979:13  
998:14 998:15 998:15 998:15 998:16  
998:19 1033:7 1033:7 1033:24 1033:  
24 1033:25 1034:6 1110:5 1113:22  
1113:22 1113:25 1114:1 1118:7 1118:  
7 1118:8 1118:10 1118:11 1118:11

## Wireline-to-wireless

[2] 969:21 1048:6

## Wireline-to-wireline

[7] 889:6 903:1 903:8 909:21 979:13  
1033:7 1113:22

## Wish

[1] 930:11

## Wishes

[1] 948:21

## Withdrawn

[1] 923:11

## Withdraws

[1] 921:21

## Witness

[198] 765:19 766:20 773:1 797:10  
797:18 797:21 798:22 799:17 799:20

800:7 800:11 801:2 801:15 803:9 806:  
9 812:12 812:15 812:22 814:17 821:  
14 821:19 821:24 824:2 824:9 826:6  
833:7 833:9 833:13 836:13 836:20  
836:23 837:1 837:6 837:10 837:16  
837:19 838:10 839:2 839:12 839:16  
839:21 840:1 841:11 841:14 841:19  
842:25 844:21 865:19 869:19 870:7  
877:11 898:18 898:23 899:2 899:22  
900:4 900:9 900:22 900:25 901:2 901:  
14 901:20 902:10 902:15 902:25 903:  
9 903:18 904:14 905:5 906:4 906:8  
906:13 907:3 909:12 909:13 911:22  
918:10 918:23 919:4 919:8 919:16  
919:25 921:4 935:21 937:4 937:9 937:  
20 938:3 938:9 939:2 943:16 946:7  
946:10 947:25 948:5 950:8 958:11  
958:15 958:24 961:5 961:11 961:19  
962:2 962:8 962:12 967:4 967:16 969:  
13 970:10 975:9 975:14 975:16 975:  
21 975:24 976:5 976:10 976:14 976:  
19 978:14 978:19 978:22 978:25 979:  
16 979:20 980:2 980:6 983:7 988:9  
988:22 995:5 1017:11 1017:13 1017:  
23 1021:22 1029:8 1031:2 1031:9  
1031:22 1032:3 1032:9 1033:4 1034:1  
1034:15 1035:6 1035:11 1036:16  
1037:16 1041:5 1041:10 1041:14  
1043:21 1051:20 1052:5 1052:16  
1052:20 1053:20 1058:1 1062:20  
1084:20 1089:5 1090:6 1091:12 1091:  
14 1104:19 1104:25 1105:5 1105:11  
1106:7 1106:17 1106:20 1107:7 1107:  
12 1107:17 1108:7 1109:8 1109:23  
1110:6 1110:21 1110:25 1111:15  
1111:24 1112:18 1113:23 1114:15  
1114:18 1114:22 1115:3 1115:11  
1120:14 1120:19 1121:11 1122:25  
1127:21 1128:3 1128:23 1130:15  
1134:5 1136:2

## Witnesses

[12] 921:12 921:15 1017:15 1017:18  
1034:9 1060:22 1062:19 1074:4 1136:  
5 1136:8 1136:9 1136:12

## Wittler

[2] 1140:5 1140:19

## Wolsey

[4] 1104:24 1105:1 1105:22 1106:18

## Wondered

[1] 797:24

## Wondering

[1] 930:14

## Woonsocket

[3] 1091:22 1091:23 1127:23

## Word

[7] 854:19 957:2 969:12 999:21 1088:  
13 1088:18 1088:18

## Words

[4] 866:22 867:3 959:17 969:14

## Works

[4] 810:2 1094:9 1103:18 1114:10

## World

[1] 889:15

## Worried

[1] 922:25

## Worry

[1] 838:5

## Worth

[3] 941:5 1097:21 1111:20

## Write

[1] 785:1

## Writing

[2] 957:11 1066:23

## Written

[3] 854:20 1073:23 1137:6

## Wrote

[1] 928:10

## WVK

[1] 871:17

## WWC

[5] 925:6 951:11 1004:24 1018:25  
1129:10

# Y

## Year

[30] 823:7 827:16 929:4 929:9 929:18  
931:16 937:2 953:7 973:5 985:7 1031:  
18 1033:16 1047:22 1059:14 1059:21  
1059:24 1059:25 1060:1 1060:2 1060:  
11 1063:11 1093:18 1095:11 1097:13  
1097:17 1098:2 1099:1 1099:2 1099:2  
1119:5

## Years

[27] 771:14 810:12 810:17 810:21  
822:23 823:6 827:21 894:8 920:25  
929:21 930:25 960:5 973:5 978:7 985:  
10 989:24 990:8 1003:25 1048:5 1049:  
16 1093:5 1099:1 1099:21 1104:21  
1111:8 1116:11 1121:22

## Yellow

[1] 1022:24

## Yesterday

[16] 765:7 797:11 807:19 811:14 828:  
17 828:19 835:18 837:5 869:2 955:19  
1021:5 1055:4 1056:25 1058:15 1076:  
19 1076:21

## Young

[1] 1113:1

## Yourself

[4] 770:16 826:25 947:1 947:3

# Z

## Zero

[15] 854:17 888:5 904:8 928:20 928:  
25 931:14 973:8 1009:13 1009:20  
1013:24 1014:3 1014:14 1015:9 1032:  
17 1117:8



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE PETITIONS FOR  
SUSPENSION OR MODIFICATION OF  
§251(b)(2) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED**

)		
)	Dockets:	TC04-025 TC04-038
)		TC04-044 TC04-045
)		TC04-046 TC04-047
)		TC04-048 TC04-049
)		TC04-050 TC04-051
)		TC04-052 TC04-053
)		TC04-054 TC04-055
)		TC04-056 TC04-060
)		TC04-061 TC04-062
)		TC04-077 TC04-084
)		TC04-085

**TESTIMONY**

**OF**

**RON WILLIAMS**

**ON BEHALF OF WWC LICENSE L.L.C.  
(WESTERN WIRELESS)**

**May 28, 2004**



**DOCKET TC04-025 et al**

**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

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 University of Washington. I  
15            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 License L.L.C. ("Western Wireless"), which  
18            provides commercial mobile radio services ("CMRS") in the state of South Dakota.

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

21   A.       I have ten years experience working for GTE (now Verizon), including six years in  
22            telephone operations and business development, and four years in cellular operations.  
23            I also have two years experience in start-up CLEC operations with FairPoint  
24            Communications. Since August 1999, I have worked for Western Wireless, first as

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1 the Director of CLEC operations and, more recently, in my current position in  
2 Industry Relations and as a project lead for implementation of LNP and  
3 interconnection with other carriers.

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

5 A. Yes, I have testified as the Company's witness in interconnection arbitration  
6 proceedings in Oklahoma and Utah. I have prefiled testimony in a South Dakota  
7 arbitration that was settled prior to hearings. And, recently, I have testified in LNP  
8 suspension matters in New Mexico and Missouri.

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

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

- 13       ▪ **What are the obligations of Petitioners' to implement LNP and what are**  
14       **the standards for granting relief?**
- 15       ▪ **Are there any real operational or technical roadblocks to Petitioners'**  
16       **implementation of number portability as required by FCC rules?**
- 17       ▪ **Is there any evidence of undue economic burden associated with**  
18       **Petitioners' implementation of local number portability?**
- 19       ▪ **What is the economic impact of delaying Petitioners' implementation of**  
20       **number portability?**
- 21       ▪ **Do Petitioners' make a valid claim that LNP in their service area is not in**  
22       **the public interest?**

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

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1 to a determination, and recommend to the South Dakota Public Utilities Commission  
2 ("Commission") an appropriate resolution.

3 **Q. DO YOU HAVE ANY BACKGROUND OR FAMILIARITY WITH WESTERN WIRELESS'**  
4 **SYSTEM IN SOUTH DAKOTA AND ANY FAMILIARITY WITH THE PETITIONERS'**  
5 **SYSTEMS IN THE STATE?**

6 **A.** Yes. I have been actively involved in negotiation of interconnection agreements with  
7 most, if not all, of the Petitioners in this case on behalf of Western Wireless.

8 **Q. IS THERE A JURISDICTION ISSUE REGARDING WAIVERS TO LNP**  
9 **IMPLEMENTATION?**

10 **A.** I cannot give a legal opinion, but I do believe there is an issue as to whether  
11 jurisdiction for LNP implementation waivers is in the FCC or state commissions. It is  
12 my understanding that the FCC's intermodal porting order requires rural ILECs to file  
13 any requests for waiver or extension with the FCC, not individual state commissions.  
14 The FCC asserted jurisdiction over all issues related to CMRS number portability by  
15 citing its authority under Sections 1, 2, 4(i) and 332 of the Communications Act.<sup>1</sup> I  
16 know that many rural ILECs applied to the FCC for a waiver, and the waiver was  
17 granted in January this year. I am attaching the FCC order on rural intermodal LNP  
18 implementation as Exhibit Williams' Direct -1. The instant case before the South  
19 Dakota Commission raises the same issues that have been addressed by the FCC  
20 under its jurisdiction.

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

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<sup>1</sup> *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*")

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1     A.     Yes. Within the last couple of weeks the FCC issued two orders denying LNP  
2           implementation suspensions for rural wireless and rural wireline carriers. In an order  
3           released May 10, 2004 the FCC denied waiver and extension requests for three rural  
4           wireless carriers who had claimed they did not receive sufficient notice to implement  
5           and their rural status constituted special circumstances.<sup>2</sup> Similarly, on May 13, 2004  
6           the FCC denied a waiver petition for temporary suspension made by North-Eastern  
7           Pennsylvania Telephone Company (NEP); a rural LEC with eight exchanges.<sup>3</sup> NEP  
8           is planning to implement LNP in conjunction with a switch replacement and argued  
9           that "it did not anticipate that intermodal porting would be an "imminent"  
10          requirement until the Commission's Intermodal LNP Order released in November  
11          2003." NEP also stated that service feature issues arose during implementation  
12          planning that would mean that NEP would not meet the May 24, 2004 deadline for  
13          LNP implementation. In denying NEP request, the FCC responded:

14                     "We are not persuaded by NEP's claims that special circumstances exist  
15                     warranting a waiver of the May 24, 2004 porting deadline in order to  
16                     accommodate NEP's switch delivery and deployment schedule, and  
17                     provide additional time to resolve any service feature issues. We find  
18                     that NEP has not presented "extraordinary circumstances beyond its  
19                     control in order to obtain an extension of time." NEP has not shown that

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<sup>2</sup> 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).

<sup>3</sup> Exhibit Williams' Direct -2: 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).

TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS

1 challenges it may face are different from those faced by similarly  
2 situated carriers who are able to comply. Generalized references to  
3 limited resources and implementation problems do not constitute  
4 substantial, credible evidence justifying an exemption from the porting  
5 requirements. NEP has known since 1996 that it would need to support  
6 LNP within six months of a request from a competing carrier. Although  
7 wireless LNP was delayed, all carriers have been on notice since July  
8 2002 that wireless and intermodal LNP would become available  
9 beginning in November 2003. Thus, NEP has had sufficient time to  
10 follow through with these mandates and prepare for LNP.”<sup>4</sup>

11 In this situation, which is very similar to the instant petitions, the FCC decision  
12 delivered a clear and consistent message: The standards are very high for obtaining a  
13 waiver of LNP obligations, the onus is on individual carriers to do all in their power  
14 to meet the obligations, and difficulties which are similar to those faced by other  
15 carriers do not constitute special circumstances worthy of any suspension. LNP is an  
16 FCC mandate and it is clear the FCC expects enforcement of its implementation.

17 **II. WHAT IS THE OBLIGATION OF PETITIONERS TO IMPLEMENT LNP**  
18 **AND WHAT ARE THE STANDARDS FOR GRANTING RELIEF?**

19 Q. ARE PETITIONERS UNDER AN AFFIRMATIVE OBLIGATION TO  
20 IMPLEMENT LNP?

21 A. Yes. All LECs have known since 1996 that they would be required to provide LNP.  
22 Section 251(b)(3) of the Communications Act of 1934, as amended (“Act”), requires  
23 all LECs to provide LNP.<sup>5</sup> In its rules implementing the LNP requirements of the  
24 Act, the FCC recognized that the public interest would be served by requiring carriers

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<sup>4</sup> See supra ¶10

<sup>5</sup> 47 U.S.C. § 251(b)(3).

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TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS

1 to implement LNP in all areas, but conditioned the requirement to implement LNP in  
2 rural areas on a carrier receiving a bona fide request ("BFR") from another carrier.<sup>6</sup>

3 **Q. DID WESTERN WIRELESS SEND A BFR TO ANY OF THE PETITIONERS REQUESTING**  
4 **THE IMPLEMENTATION OF LNP?**

5 A. Yes. In November 2003 Western Wireless sent all but three of the Petitioners,  
6 Western, Splitrock Properties and Tri-County, a BFR to implement LNP.<sup>7</sup> Western  
7 Wireless' lawful request to implement LNP provided these carriers with more than 6  
8 months notice to deploy Local Number Portability. These telcos waited 4 months to  
9 seek a suspension of their LNP obligations, hopeful that this tactic would result in  
10 delay of their legal obligations.

11 **Q. WHAT IS THE STANDARD FOR GRANTING THE PETITIONERS' REQUEST FOR A**  
12 **SUSPENSION OF THEIR LNP OBLIGATIONS?**

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

16 to the extent that, and for such duration as, the State commission  
17 determines that such suspension or modification —  
18 (A) is necessary: (i) to avoid significant adverse impact on users of  
19 telecommunications services generally; (ii) to avoid imposing a  
20 requirement that is unduly economically burdensome; or (iii) to  
21 avoid imposing a requirement that is technically infeasible; and  
22 (B) is consistent with the public interest, convenience, and  
23 necessity.<sup>8</sup>  
24

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<sup>6</sup> 47 C.F.R. § 52.26.

<sup>7</sup> Exhibit Williams' Direct -3

<sup>8</sup> 47 U.S.C. § 251(f)(2).

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1 “Congress intended exemption, suspension, or modification of the section 251  
2 requirements to be the exception rather than the rule.... We believe that Congress did  
3 not intend to insulate smaller or rural LECs from competition.”<sup>9</sup>

4 **Q. IF CONGRESS DID NOT INTEND TO INSULATE RURAL TELEPHONE COMPANIES**  
5 **FROM COMPETITION, THEN HOW SHOULD THIS COMMISSION DETERMINE**  
6 **WHETHER OR NOT TO SUSPEND THE PETITIONERS’ LNP OBLIGATIONS?**

7 **A.** Each Petitioner bears the burden of demonstrating that it meets the statutory standard  
8 for a suspension of its LNP obligations. Although Section 251(f) of the Act provides  
9 that rural carriers may obtain a suspension of their LNP obligations, the FCC has  
10 concluded that a suspension is only appropriate under unique and compelling  
11 circumstances:

12 Thus, we believe that, in order to justify continued exemption once a  
13 bona fide request has been made, or to justify suspension or  
14 modification of the Commission’s section 251 requirements, a LEC  
15 must offer evidence that application of those requirements would be  
16 likely to cause undue economic burdens beyond the economic burdens  
17 typically associated with efficient competitive entry. State  
18 commissions will need to decide on a case-by-case basis whether such  
19 a showing has been made.<sup>10</sup>

20 **Q. IN THE ABSENCE OF THE IMPLEMENTATION DELAY ALREADY GRANTED TO**  
21 **RURAL LECs BY THE FCC, WHAT ARE THE PREVAILING GUIDELINES FOR**  
22 **IMPLEMENTATION OF LNP AND HOW DO THEY RELATE TO THE PETITIONERS’**  
23 **SITUATION?**

24 From the exhibits provided with the Petitions, it is apparent that most ILEC networks  
25 require only switch software upgrades and table translations to make them LNP  
26 capable. The FCC produced guidelines that suggest this type of upgrade can be

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<sup>9</sup> *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*”).

<sup>10</sup> *LNP First Report and Order* at 16118.



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1 completed within 60 days. Local Number Portability requirements were established  
2 for all LECs in Section 251(b)(3) of the Telecom Act in 1996<sup>11</sup>. Specific to the  
3 Petitioners in this case, the FCC conditioned the requirement to implement LNP in  
4 rural areas on a carrier receiving a BFR from another carrier.<sup>12</sup> While a rural carrier  
5 has six months from receipt of a BFR to implement LNP, the FCC guidelines for  
6 switch preparation indicate a much shorter time may be necessary:<sup>13</sup>

7 After the deadline for deployment of number portability in an MSA in  
8 the 100 largest MSAs, according to the deployment schedule set forth  
9 in the appendix to this part, a LEC must deploy number portability in  
10 that MSA in additional switches upon request within the following  
11 time frames:

- 12 (A) For remote switches supported by a host switch equipped for  
13 portability ("Equipped Remote Switches"), within 30 days;
- 14 (B) For switches that require software but not hardware changes to  
15 provide portability ("Hardware Capable Switches"), within 60  
16 days;
- 17 (C) For switches that require hardware changes to provide  
18 portability ("Capable Switches Requiring Hardware"), within  
19 180 days;
- 20 (D) For switches not capable of portability that must be replaced  
21 ("Non Capable Switches), within 180 days.

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

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<sup>11</sup> 47 U.S.C. § 251(b)(3).

<sup>12</sup> 47 C.F.R. § 52.23(c).

<sup>13</sup> 47 C.F.R. § 52.23(b)(2)(iv).

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1 The FCC reiterated this rule with respect to intermodal LNP on November 10, 2003

2 (Attached as Exhibit Williams' Direct -4):

3 "Therefore for wireline carriers operating in areas outside of the 100  
4 largest MSAs, we hereby waive, until May 24, 2004, the requirement  
5 that these carriers port numbers to wireless carriers that do not have a  
6 point of interconnection or numbering resources in the rate center  
7 where the customer's wireline number is provisioned."<sup>14</sup>

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

10 "Accordingly, IT IS ORDERED that, pursuant to authority contained  
11 in sections 1, 4(i), 251, and 332 of the Communications Act of 1934,  
12 as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, we GRANT a limited  
13 waiver of the wireline-to-wireless porting requirement, until May 24,  
14 2004, for local exchange carriers with fewer than two percent of the  
15 nation's subscriber lines in the aggregate nationwide that operate in the  
16 top 100 Metropolitan Statistical Areas and have not received a request  
17 for local number porting from either a wireline carrier prior to May 24,  
18 2003 or a wireless carrier that has a point of interconnection or  
19 numbering resources in the rate center where the customer's wireline  
20 number is provisioned."<sup>15</sup>

21 There is nothing vague or indefinite about the LNP obligations imposed on the  
22 Petitioners. This eventuality has been foreseeable for the eight years since the  
23 Telecom Act was passed in February 1996. The specific expectations of Western  
24 Wireless' porting interest have been known for more than 6 months since eighteen of

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<sup>14</sup> 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"*)

<sup>15</sup> 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 Williams' Direct -1)

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1       them received BFRs from Western Wireless. The FCC released its *Intermodal*  
2       *Porting Order* more than 6 months ago. With all this advance public notice it is  
3       inconceivable that the Petitioners would not be prepared to implement LNP. Clearly,  
4       the time that has already been provided to these Petitioners should have been  
5       sufficient time to meet their obligations.

6       **Q.    SHOULD THE FACT THAT MANY SIMILARLY SITUATED LECS ARE NOT SEEKING A**  
7       **DELAY OR SUSPENSION OF LNP IMPLEMENTATION MERIT CONSIDERATION IN**  
8       **THIS PROCEEDING?**

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

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

16       A.    Yes. I am not familiar with all state commissions, but I do understand that the  
17       Pennsylvania Commission concluded that “rural residents have as much right to  
18       competitive choices as their more numerous urban counterparts” and that as a result,  
19       rural LEC suspension Petitioners “must present competent evidence that such relief is  
20       necessary under Section 251(f)(2).”<sup>16</sup> In response to requests for suspension of LNP

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<sup>16</sup> *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).

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1 obligations, several state commissions have rejected rural LEC technical and/or  
2 financial arguments in support of their LNP suspension requests.<sup>17</sup> Notably, the  
3 Michigan Public Service Commission denied LNP suspension to two small rural  
4 LECs stating:

5 "The Commission is unconvinced that the burdens will  
6 disproportionately affect the Petitioners as compared with other  
7 carriers. Indeed, the Petitioners have been on notice since 1996 to  
8 prepare for implementation of LNP and replacement of new switches  
9 should have been completed prior to the implementation date .... Any  
10 deferment of the FCC's number portability requirements beyond that  
11 time [May 24, 2004] would be anti-competitive and anti-consumer."<sup>18</sup>

12 Although the Petitioners have sought relief from number portability requirements  
13 through this proceeding, there is no reason why the competitive choice, enabled by  
14 number portability, and already available to most people in South Dakota, should be  
15 delayed for the Petitioners' customers.

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

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<sup>17</sup> 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.

<sup>18</sup> 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.)

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1 A. Yes. Texas is a good example. The Texas Commission Staff was actively involved  
2 in negotiating with rural telephone companies to shorten or withdraw their suspension  
3 requests. The Staff was successful in resolving all ten original petitions<sup>19</sup> but not  
4 before they submitted the following testimony in the docket:

5 "I recommend the denial of the petitions of Valor and KTC to suspend  
6 implementation until March 15, 2005 of the FCC's Intermodal Order ...  
7 I have determined that the Companies have failed to provide sufficient  
8 information and demonstrate the stated factors pursuant to FTA  
9 §251(f)(2) to justify an extension ... The Companies further failed to  
10 demonstrate that implementation of intermodal LNP prior to March 15,  
11 2005 would be inconsistent with the public interest, convenience and  
12 necessity of Texas customers. I further conclude that the Companies  
13 have failed to take steps to comply with the Intermodal Order in a timely  
14 manner after receiving bona fide requests (BFR) for intermodal porting.  
15 As a consequence I recommend that the Companies be held accountable  
16 for non-compliance with FTA § 251(f)(2), if they are not LNP capable  
17 by May 24, 2004. Thus, the Companies would be subject to applicable  
18 FCC enforcement proceedings and/or state commission enforcement  
19 action, if applicable.<sup>20</sup>

20 **III. ARE THERE ANY REAL OPERATIONAL OR TECHNICAL ROADBLOCKS**  
21 **TO THE PETITIONERS' IMPLEMENTATION OF NUMBER**  
22 **PORTABILITY AS REQUIRED BY FCC RULES?**

23 **Q. WHAT HAVE THE PETITIONERS' IDENTIFIED AS ROADBLOCKS TO THE IMPLEMENTATION OF**  
24 **NUMBER PORTABILITY?**

25 A. In their Petitions and through discovery responses, the Petitioners have identified only  
26 a few technical or feasibility issue in the implementation of local number portability:

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<sup>19</sup> 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"

<sup>20</sup> 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 lines 5-21 and P 5 lines 1-8.

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- 1           ▪ The deadlines imposed for LNP implementation do not provide enough
- 2           time to implement number portability under the FCC rules.
- 3           ▪ Routing local traffic to numbers that have been ported to wireless carriers
- 4           (which has been mischaracterized as 'location portability') when there is
- 5           no direct connection between the Petitioner network and the wireless
- 6           carrier.
- 7           ▪ Uncertainty associated with obligations of intermodal LNP

8   **Q. DO THESE REPRESENT REAL BARRIERS TO COMPLETING IMPLEMENTATION OF**  
9   **NUMBER PORTABILITY OBLIGATIONS BY MAY 24, 2004?**

10   A. No. The Petitioners have introduced these challenges, which are faced by all carriers  
11   (wireline and wireless, urban and rural) implementing number portability, and have  
12   characterized them as impossible to overcome, "technically infeasible", and/or  
13   representing "a potential waste of resources ...". This is simply not the case.

14   **Q. WHAT ABOUT THE TECHNICALLY INFEASIBLE CLAIM?**

15   A. Other rural telephone companies do not concur in this: In recent testimony  
16   concerning an LNP suspension petition in New Mexico, Steven D. Metts, a witness  
17   co-sponsored by the New Mexico Exchange Carriers Group made the following  
18   responsive statement<sup>21</sup>:

19           Q. "Is it your contention that suspension of the FCC requirements is based  
20           upon technological incapability for any of your companies?"

21           A. "No."

22   Some of the Petitioner's also concur that the implementation of LNP is not infeasible.  
23   Beresford Telephone, in response to Western's Discovery Request 9 made this  
24   statement when asked about the feasibility of routing calls to ported numbers when

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<sup>21</sup> New Mexico Case No. 04-00017-UT, Hearing Transcript Day 1, p 51 lines 10-13, April 6, 2004

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1           there is no direct connection between carriers: "...it is not "technically infeasible" to  
2           route such a call".

3   **Q.**     **DOES THE INTERMODAL PORTING OF NUMBERS ORDERED BY THE FCC CONSTITUTE LOCATION**  
4           **PORTABILITY?**

5   **A.**     No, it is not location portability. The intermodal number portability ordered by the  
6           FCC enables, for example, a residential LEC customer to substitute wireless service  
7           for LEC service at the same location where that customer receives landline service.  
8           This constitutes number portability, not location portability. Mr. Watkins' testimony  
9           exaggerates the circumstances but, in the end, concedes the FCC has already  
10          addressed this in the Intermodal Porting Order.<sup>22</sup>

11 **Q.**     **WHAT ABOUT PETITIONERS' CONCERN REGARDING THE ROUTING OF TRAFFIC TO TELEPHONE**  
12           **NUMBERS THAT HAVE BEEN PORTED TO WIRELESS CARRIERS?**

13 **A.**     The Petitioners imply that routing local traffic originating on their networks and  
14          destined for a number ported to a wireless carrier is a difficult and unprecedented  
15          requirement. This is not the case. There are economical ways to accomplish this at a  
16          small fraction of what the Petitioners claim for "transport" costs.

17 **Q.**     **WHY ARE THE PETITIONERS RAISING A CONCERN REGARDING INTERMODAL PORTING AND THEIR**  
18           **LOCAL ROUTING OBLIGATIONS?**

19 **A.**     Under some circumstances, when there is no physical interconnection between a LEC  
20          and a wireless carrier, the LEC will need to route a call to a ported number to the  
21          serving tandem. This is no different than the manner in which wireless carriers  
22          terminate calls to many LEC exchanges in South Dakota today.

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

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<sup>22</sup> Watkins' Direct p24 lines 5-7.

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1 A. A call that was local before a number ported would either not be completed or would  
2 be required to be dialed as a toll call after the number was ported. Imagine a scenario  
3 where your neighbor had to dial toll to reach your telephone number just because you  
4 changed your service provider. It would make no sense.

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

6 A. No. This practice is permitted under industry guidelines associated with the  
7 assignment of telephone numbers by the North American Numbering Plan  
8 Administrator (NANPA)<sup>23</sup>. In fact, Western Wireless has several implementations of  
9 this throughout its service area.

10 **Q. ARE THE PETITIONERS CONCERNS ABOUT THE UNCERTAINTY OF FUTURE FCC RULES ON LNP ANY**  
11 **DIFFERENT THAN THOSE FACED BY OTHER CARRIERS THAT ARE ALREADY IMPLEMENTING LNP?**

12 A. No. While there is some uncertainty in what the FCC will do in the future regarding  
13 compensation matters, there is no uncertainty about the rating and routing obligations  
14 relative to LNP. All carriers face these same hurdles: The rating of calls to a ported  
15 number must remain as they were prior to the number being ported. And, it is the  
16 originating carrier's responsibility to properly route traffic to a ported number. The  
17 FCC didn't mandate a method to accomplish these obligations because there is not  
18 just one way to overcome these hurdles.

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<sup>23</sup> 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 is outside the rate center to which they are assigned.



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1           **IV. IS THERE ANY EVIDENCE OF UNDUE ECONOMIC BURDEN**  
2           **ASSOCIATED WITH PETITIONERS IMPLEMENTATION OF LOCAL NUMBER**  
3           **PORTABILITY?**

4   **Q.     WHAT IS THE STANDARD FOR ESTABLISHING AN “UNDUE ECONOMIC BURDEN”?**

5   A.     Section 251(f)(2) permits the Commission to suspend a LEC’s LNP obligation if such  
6           action is “necessary to avoid imposing a requirement that is unduly economically  
7           burdensome.”<sup>24</sup> The Ohio Commission has held that the statutory phrase, “unduly  
8           economically burdensome,” means economic burdens “beyond the economic burdens  
9           typically associated with efficient competitive entry.”<sup>25</sup> The facts contained in the  
10          Petitions do not meet the standard that would lead one to conclude the economic  
11          burden exceeds that ‘typically associated with efficient competitive entry.’

12   **Q.     HAVE YOU HAD ANY EXPERIENCE IN DEALING WITH THE REAL LIFE COSTS OF**  
13           **LNP IMPLEMENTATION?**

14   A.     Yes I have had experience implementing LNP on Western Wireless’ own network.  
15           This entailed the upgrading of switches, intergrating systems, implementing the LNP  
16           with a CLEC and providing for SOA and LNP queries. I worked on these issues from  
17           an operational, technical, and cost aspect.

18   **Q.     ARE THE LNP COST PROJECTIONS IN THE PETITIONS A REASONABLE APPROXIMATION OF THE**  
19           **COSTS OF IMPLEMENTING LNP FOR THE PETITIONERS?**

20   A.     The cost projections provided by the Petitioners grossly overstate the implementation  
21           and operational costs of LNP. Both non-recurring ‘start-up’ and monthly recurring

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<sup>24</sup> 47 U.S.C. § 251(f)(2)(A)(ii).

<sup>25</sup> *Western Reserve Petition* at 13.

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1 costs have been over estimated by the Petitioners; in some cases producing costs  
2 many times a realistic projection.

3 **Q. PLEASE PROVIDE EXAMPLES OF THE OVERSTATEMENT OF CLAIMED LNP IMPLEMENTATION COSTS.**

4 A. Although cost over-statements occur with most Petitioners in many cost categories,  
5 based on evidence provided to date, overstatements of non-recurring LNP  
6 implementation costs occur in the category "Other Internal Costs". In this category,  
7 the Petitioners have included costs to deal with "porting contracts" and costs related  
8 to the development of "Intercarrier Porting Forms". These costs are grossly  
9 overstated and, perhaps, should not be included at all: Contracts are not required for  
10 porting between carriers and there are standard industry 'porting' forms available to  
11 any carrier for a nominal fee. Some Petitioners have included fees for "SOA Non-  
12 recurring set up charge" or non-recurring "Service Order Administration" when  
13 estimated port volumes provide no justification for an automated SOA interface.  
14 Unfortunately, many of the Petitioners have not provided sufficient information in  
15 response to interrogatories to address the validity of switch upgrade cost claims at this  
16 time. They have instead claimed the cost information is confidential and have refused  
17 to provide it even though Western Wireless has executed a "confidentiality  
18 agreement."

19 **Q. PLEASE PROVIDE AN EXAMPLE OF THE OVERSTATEMENT OF CLAIMED LNP RECURRING COSTS.**

20 A. Many categories of recurring costs are overstated. These include: "SOA Monthly  
21 Charge" estimates that are based on a vendor quote for an automated interface with a  
22 high minimum monthly charge, "Other Recurring Costs" that are overstated based on  
23 Petitioner's own estimate of port volume, "Switch Maintenance Costs" which are not

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1 justified in relation to LNP, "Business Procedure" and porting process costs for  
2 testing, verification, translations, and administrative which appear to be overstated  
3 and redundant, and Marketing/Informational Flyer costs which are not justified on a  
4 recurring basis.

5 **Q. CAN YOU PROVIDE A SPECIFIC EXAMPLE OF OVERSTATED SOA COSTS?**

6 A. Yes. For example, Beresford Telephone has claimed a non-recurring charge of  
7 \$1,800 and a monthly recurring charge of \$1,200 for Service Order Administration  
8 (SOA) functionality. Beresford is claiming a total first year cost of \$30,600 for SOA.  
9 In response to discovery, Beresford estimated 24 ports per year. Beresford can utilize  
10 the Number Portability Administration Center (NPAC) Help Desk to perform the  
11 SOA function for these 24 ports for a total of \$360. Beresford has overstated first  
12 year SOA costs by more than 80 fold. This single cost overstatement results in an  
13 almost a dollar (\$.85) of claimed LNP cost per line per month. Most of the other  
14 Petitioners have similarly forecasted low porting volumes that do not justify an  
15 automated SOA interface and high minimum monthly recurring charges.

16 **Q. WHAT ABOUT PETITIONER CLAIMS FOR 'TRANSPORT' COSTS?**

17 A. In every instance that I have reviewed, the Petitioner has identified the most  
18 inefficient means of routing traffic to ported numbers as the basis for formulating  
19 start-up and recurring costs. The approach taken by the Petitioners produces costs  
20 that may be as high as 400 times the cost that an efficient operator would incur to  
21 accomplish their routing obligations for similar traffic. For example, West River  
22 Cooperative Telephone assumes the installation of more than 30 T1 circuits to route  
23 traffic in the first year of LNP implementation. West River also estimated 12

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1 customers will port each year. Assuming these porting customers to have average  
2 incoming call characteristics, Western Wireless estimates the cost of routing traffic to  
3 these ported numbers to be \$1,120 for the year including non-recurring charges.  
4 West River estimates these same costs to be more than \$467,000.

5 **Q. DO YOU HAVE ANY OTHER COMMENTS ON PROPOSED LNP 'TRANSPORT' COST RECOVERY?**

6 A. Yes. It is unclear that any of the costs included in this line item are recoverable under  
7 the FCC's rules pertaining to recovery via a line-item surcharge on local  
8 telecommunications customers. I believe the FCC views that it is the originating  
9 carrier's responsibility to deliver local traffic for termination and that the costs  
10 associated with fulfilling that responsibility are not a number portability cost.

11 **Q. HAVE YOU PREPARED ALTERNATIVE LNP COST ESTIMATES FOR THE PETITIONERS?**

12 A. Yes. Based on my experience with interconnection and with number portability, I  
13 have attached Exhibit Williams' Direct 5 which reflects the modifications to  
14 Petitioner costs consistent with my testimony.

15 **Q. I NOTE THAT WILLIAMS' DIRECT -5 IS BROKEN INTO TWO PAGES, ONE MARKED**  
16 **AS 5A AND ONE MARKED AS 5B. COULD YOU EXPLAIN THE DIFFERENCES ON**  
17 **THESE TWO PAGES?**

18 A: When the Petitioners in this case provided cost summaries, they did so in two  
19 separate formats. To assist in comparing the costs estimated on 5A and 5B with the  
20 Petitioner cost submissions, we maintained the two distinct formats and presented the  
21 revised estimates.

22 **Q. IN PREPARING WILLIAMS' DIRECT -5, WHAT INFORMATION DID YOU USE?**

23 A. For the most part, I used the same numbers as those being presented by the

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1 Petitioners. However, I have changed certain values to more reasonable and realistic  
2 amounts in those areas I have discussed in my testimony. These changes are based on  
3 my experience and also some of the other cost information the Petitioners submitted.  
4 Any number that I corrected in the cost estimate is highlighted on the exhibit for ease  
5 of comparison. In some cases I eliminated a cost. For example, I eliminated the  
6 switch maintenance cost because these costs already exist for the switches now being  
7 used and the fact that the new switch to be put in will be LNP compatible does not  
8 result in additional increase in these costs.

9 **Q. YOU MENTIONED EARLIER IN YOUR TESTIMONY THAT IN EVERY INSTANCE THAT**  
10 **YOU HAVE REVIEWED IN THESE FILINGS THE PETITIONERS HAVE IDENTIFIED**  
11 **THE MOST INEFFICIENT MEANS OF ROUTING TRAFFIC TO PORTED NUMBERS AS A**  
12 **BASIS FOR THEIR LNP COST ESTIMATES. HOW IS IT INEFFICIENT?**

13 A. The routing methods proposed by the Petitioners are inefficient in that they make  
14 little or no utilization of existing equipment and shared facilities currently used to  
15 exchange calls with other carriers. A more efficient and less costly mechanism for  
16 establishing routing for LNP is illustrated in Exhibit Williams' Direct - 6.

17 **Q. WHAT IS YOUR RECOMMENDATION ON PETITIONERS' CLAIMS THAT THE COST OF LNP**  
18 **IMPLEMENTATION IS UNDULY BURDENSOME?**

19 A. The bar has been set very high for granting an exception on the basis of the costs of  
20 implementing local number portability. The Petitioner cost exhibits include inflated  
21 costs that don't stand-up to scrutiny. The Petitioners have failed to demonstrate their  
22 costs are unduly burdensome. Neither have they demonstrated that their costs are any  
23 different than other rural wireless and wireline carriers that are or have implemented  
24 number portability.

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V. WHAT IS THE ECONOMIC IMPACT OF DELAYING PETITIONERS' IMPLEMENTATION OF NUMBER PORTABILITY?

Q. PETITIONERS IMPLY THAT SIGNIFICANT NUMBER PORTABILITY INVESTMENT RISK WILL BE AVOIDED BY DELAYING IMPLEMENTATION. IS THERE MERIT TO THESE ASSERTIONS?

A. No, the implementation cost information provided for the Petitioners indicates that there is little or no investment that would be avoided by delaying implementation of number portability.

Q. EXPLAIN THE EVIDENCE THAT DEMONSTRATES THE LNP INVESTMENT RISK IS LOW?

A. The data presented by the Petitioners lead to the conclusion that granting a delay in implementation of number portability will not have a material impact on the investments required. The nature of the LNP implementation and operational cost provided in the Petitions is predominately related to network investments, basic port process development, and port-driven variable costs. These are not costs that are at risk to any foreseeable change in LNP capability requirements. They do not reflect the potential for reduction at a later time. The transport cost category is so misconstrued and overstated by the Petitioners that it is meaningless. If routing costs were properly identified, they would amount to a small fraction of LNP costs and would not be of material impact.

Q. SO, WILL A DELAY SAVE ANY LNP INVESTMENTS?

A. No. The investments required by Petitioners will not be reduced by delaying their obligation to implement LNP. The risk for each of the Petitioners is no more than the investment risk made by any other carrier who has implemented local number portability. A delay only serves to deny those competitive carriers that have made

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1 LNP investments the opportunity to leverage that investment in Petitioner serving  
2 areas.

3 **Q. DO THE PETITIONERS' HAVE LNP ROUTING OBLIGATIONS THAT TRANSCEND ANY SUSPENSION OF**  
4 **INTERMODAL LNP IMPLEMENTATION?**

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

7           Regardless of the status of a carrier's obligations to provide number  
8           portability, all carriers have the duty to route calls to ported numbers.  
9           In other words, carriers must ensure that their call routing procedures  
10          do not result in dropped calls to ported numbers."<sup>26</sup>

11 Granting any further delay to these Petitioners would seem to exacerbate their  
12 problem with respect to routing obligations. Many of the Petitioners provide service  
13 in local calling areas that are common to a Qwest rate center (e.g., James Valley's  
14 Frederick and Mellett exchanges have a local calling area shared with Qwest's  
15 Aberdeen rate center) that will have number portability implemented on or before  
16 May 24, 2004. In the event a number is ported in the Aberdeen rate center, the FCC  
17 has made it clear that a carrier is still obligated to route calls to ported numbers.

18 **Q. DOES THE FACT THAT THE PETITIONERS ARE NOT IMPLEMENTING LNP LIMIT**  
19 **WIRELESS TO WIRELESS NUMBER PORTABILITY?**

20 A. Yes. Since the beginning of the wireless industry, wireless carriers have used number  
21 assigned to them by LECs. These numbers appear in industry routing guides as if  
22 they were affiliated with the LEC switch instead of the wireless carrier's switch. In  
23 these instances, a wireless customer cannot port their wireless number to another

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<sup>26</sup> 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.

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1 wireless provider unless the LEC is LNP compliant and participates in the port. In  
2 South Dakota, there are at least five thousand Western Wireless numbers that would  
3 fall into this category and other wireless carriers in South Dakota would also likely  
4 have as many numbers that would fall subject to this problem.

5 **VI. DO PETITIONERS MAKE A VALID CLAIM THAT LNP IS NOT IN THE**  
6 **PUBLIC INTEREST IN THEIR SERVICE AREAS?**

7 **Q. DO THE PETITIONERS' CLAIMS 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 South Dakota. Qwest 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 has ordered to happen on  
12 May 24, 2004. Instead of just adding more competitors to South Dakota's urban  
13 markets, intermodal LNP enables wireless carriers to compete effectively for  
14 customers in areas that have not previously been exposed to competition.

15 **Q. HAS THE FCC MADE ANY RECENT COMMENTS WITH RESPECT TO THE PUBLIC INTEREST AND THE**  
16 **IMPLEMENTATION OF LNP IN RURAL AREAS?**

17 A. Yes. On May 6, 2004, K. Dane Snowden, Chief of the Consumer & Governmental  
18 Affairs Bureau, issued a letter to the President of NARUC. The letter asked NARUC  
19 to encourage state commissions to ensure that waivers are only granted "where  
20 carriers demonstrate undue economic burden or technological infeasibility and, in  
21 reference to the waiver obligations of Section 251(f) of the Act:

22 "strictly apply that statutory standard so that rights of consumers  
23 are protected. I encourage the State commissions to ensure that  
24 carriers seeking waivers demonstrate that they are on a path to



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1 compliance so that customers of these carriers will not be forever  
2 denied the rights their fellow consumers enjoy.”<sup>27</sup>

3 **Q. IS THERE ANY REASON WHY THE COMPETITIVE CHOICE, ENABLED BY NUMBER PORTABILITY, AND**  
4 **ALREADY AVAILABLE TO MOST SOUTH DAKOTANS, SHOULD BE DELAYED FOR THE CUSTOMERS OF**  
5 **THESE PETITIONERS?**

6 **A. No.**

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

9 **A. Yes, many industry watchers are projecting that intermodal number portability will**  
10 **open the door to increased competition and accelerated substitution of wireless for**  
11 **wireline services. Here are some excerpts of a Cato Industry report summarizing the**  
12 **impact of wireless substitution<sup>28</sup>: “Wired Magazine recently reported that roughly**  
13 **3% of homes have dropped their landlines and 8% are expected to follow suit in the**  
14 **next five years.” “A more recent study by PriMetrica, Inc. suggested that roughly**  
15 **half of U.S. households would be willing to dump wireline for cellular ...”. “And**  
16 **now comes the number portability decision, which adds more fuel to the VoIP and**  
17 **wireless substitution fire. I think it will certainly increase the move toward**  
18 **substituting wireless for wire-line phones’ notes Rebecca Arbogast, an analyst with**  
19 **Legg Mason.” Finally, common sense tells us that demand for a service greatly**  
20 **increases once the service becomes available.**

21 **Q. HAS WESTERN WIRELESS MADE THE INVESTMENTS NECESSARY TO PROVIDE LNP IN SOUTH**  
22 **DAKOTA?**

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<sup>27</sup> Attached is Exhibit Williams’ Direct - 7, a copy of the correspondence from the Bureau Chief of the FCC Consumer & Governmental Affairs Bureau to the President of NARUC.

<sup>28</sup> “Number Portability Adds to Wireline Telecom Sector’s Perfect Storm,” Adam Thierer, Director of Telecommunication Studies, Cato Institute, Issue 66, November 20, 2003.

**DOCKET TC04-025 et al**

**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 A. Yes. We have upgraded our network, implemented new processes, systems, and  
2 hired supporting resources to implement LNP in South Dakota. In other words, we  
3 have absorbed the costs of implementing LNP under our FCC obligations. Further,  
4 we believe it is unfair that carriers who we compete with, that are similarly obligated,  
5 would be exempted from their obligations and thereby limit our ability to recoup the  
6 LNP investments we have made by restricting our opportunity to leverage those  
7 investments in a competitive marketplace.

8 **Q. HAVE THE PETITIONERS MET THE PUBLIC INTEREST STANDARD FOR GRANT OF A SUSPENSION OF**  
9 **LNP OBLIGATIONS?**

10 A. No. The public interest would not be served by suspending these Petitioners' LNP  
11 obligations. Section 251(f)(2) of the Act requires the Commission to determine that  
12 suspension of a carrier's LNP obligations would be "consistent with the public  
13 interest, convenience, and necessity."<sup>29</sup> The provision of LNP by LECs is a critical  
14 component of a competitive local telephone market. Rural consumers are  
15 increasingly choosing wireless service for their telecommunications needs and may  
16 choose to port their wireline number to Western Wireless upon the implementation of  
17 number portability as mandated by the Federal Communications Commission. The  
18 FCC has observed that the inability of customers to retain their telephone numbers  
19 when changing local service providers hampers the development of local competition:

20 Section 251(b)(2) removes a significant barrier to completion by  
21 ensuring that consumers can change carriers without forfeiting their  
22 existing telephone numbers.<sup>30</sup>

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<sup>29</sup> 47 U.S.C. § 251(f)(2)(B).

<sup>30</sup> Third LNP Order, 13 FCC Rcd 11701, 11702-04 ¶¶ 3-4 (1998)

**DOCKET TC04-025 et al**

**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

1 The fact is, number portability has proven to be an enabler of competition wherever it  
2 has been implemented. The bona fide request process for local number portability  
3 has led to an opportunity for increased competition in rural South Dakota markets on  
4 May 24, 2004, (i.e., the ability of a wireless carrier to compete for service in areas  
5 that have not previously been exposed to competition). The implementation of LNP  
6 is intended to serve the important public interests of improved choice and competition  
7 for consumers.

8 **Q. IS THE PETITIONERS' THREAT OF "CUSTOMER CONFUSION"**<sup>31</sup> **AMONG TELEPHONE USERS A**  
9 **REALISTIC CONCERN?**

10 **A.** Only if the Petitioners' are not required to meet their routing obligations as an  
11 originator of local telecommunications traffic. The Petitioners' threat of misrouting  
12 calls to ported numbers as toll calls is in clear violation of the FCC's rules:

13 "a wireless carrier porting-in a wireline number is required to maintain  
14 the number's original rate center designation following the port. As a  
15 result, calls to the ported number will continue to be rated in the same  
16 fashion as they were prior to the port."<sup>32</sup>

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

18 "The ability of users of telecommunications services to retain, at the  
19 same location, existing telecommunications numbers *without*

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<sup>31</sup> See, for example, Petitioner TC04-045 by Golden West Telecommunications Cooperative, et al, ¶ 20: "The current technical issues with wireline-to-wireless LNP implementation will lead to customer confusion ... The switch will search for a trunk over which to route the call. If a direct trunk group has not been established ... the party placing the call will likely receive a message that the call cannot be complete as dialed or a message instructing the party to redial using 1+ the area code. Confusion among telephone users will occur ..." And See Steven E. Watkins Direct Testimony, p 7 lls 10-13.

<sup>32</sup> Intermodal Porting Order at ¶ 27.

DOCKET TC04-025 et al

TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS

1           *impairment of quality, reliability, or convenience* when switching  
2           from one telecommunications carrier to another.”<sup>33</sup> [Emphasis added]

3   **Q.**     ARE THE PETITIONERS’ CLAIMS CONSISTENT WITH FCC POLICY?

4   A.     No. The Petitioners claim they need additional guidance prior to implementing LNP.  
5           Additional guidance is not necessary. Granting the Petitioners’ delay is at odds with  
6           FCC policy and the interests of rural consumers who, like their urban counterparts,  
7           have the expectation of legal right under the Communications Act to port their  
8           numbers to new carriers should they so desire. Tactics to further delay intermodal  
9           LNP will be a disservice to consumers in each of the Petitioners’ own service areas.

10   **Q.**    IS THERE EVIDENCE THAT THE PETITIONERS ARE NOT ACTING IN GOOD FAITH WITH RESPECT TO  
11           FCC OBLIGATIONS TO IMPLEMENT LOCAL NUMBER PORTABILITY?

12   A.     Yes. It is clear from the Petitioners’ response to discovery that few are moving  
13           forward with LNP implementation. All the Petitioners have ‘considered’ some of the  
14           ramifications of LNP and most have ‘reviewed’ and ‘discussed’, but very few have  
15           actually implemented any element of LNP. The fact that most of the Petitioners have  
16           not prepared their network for the implementation of competition through LNP or  
17           their business processes and, apparently, have not budgeted for LNP implementation  
18           in 2004 (even though they received bona fide requests for implementation in 2003)  
19           does not constitute undue economic burden. Neglect of, disregard for, or mis-  
20           management relative to FCC rules should not be used as basis for granting any delay  
21           or suspension of number portability obligations.

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

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<sup>33</sup> 47 U.S.C. § 153(30)

**DOCKET TC04-025 et al**

**TESTIMONY OF RON WILLIAMS ON BEHALF OF WESTERN WIRELESS**

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.<sup>34</sup>

8 **VII. CONCLUSION**

9 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

10 Petitioners have not provided evidence or otherwise demonstrated that there is any  
11 technical constraint to the implementation of local number portability by May 24,  
12 2004. Petitioners have not met the standard that would lead one to conclude the  
13 economic burden exceeds that "typically associated with efficient competitive entry."  
14 Nor have Petitioners demonstrated that the implementation of number portability  
15 would conflict with the public interest and the competitive choice guidelines set by  
16 the FCC and this Commission.

17 The Commission should reject Petitioner arguments for delayed  
18 implementation, deny the suspensions, and force the Petitioners to face the  
19 consequences of their LNP preparations or lack thereof.

20 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

21 A. Yes, it does.

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<sup>34</sup> See Attachment Williams' Direct -8, Washington Watch, NECA, March 18, 2004.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Petitions of Local Number Portability Obligations	Docket No. TC 04-025; TC04-038; TC04-044 through TC04-056; TC04-060 through TC04-062; TC04-077; TC04-084 and TC04-085
---	--

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 27 day of May, 2004, I served a true and correct copy of WWC's Direct Testimony of Ron Williams by email and Next Day Delivery, postage paid to:

**dprogers@riterlaw.com**

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Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative

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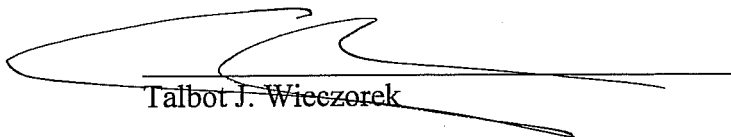
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South Dakota Telecommunications Assoc.

A handwritten signature in black ink, consisting of a large, stylized 'T' followed by a series of loops and a long horizontal stroke extending to the right.

Talbot J. Wiczorek



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Telephone Number Portability

)  
)  
)  
)

CC Docket No. 95-116

**ORDER**

Adopted: January 13, 2004

Released: January 16, 2004

By the Commission:

**I. INTRODUCTION**

1. In this order, we grant a limited waiver of the wireline-to-wireless porting requirement for certain local exchange carriers with fewer than two percent of the nation's subscriber lines in the aggregate nationwide (Two Percent Carriers)<sup>1</sup> that operate in the top 100 Metropolitan Statistical Areas (MSAs).<sup>2</sup> Specifically, we grant Two Percent Carriers that meet the conditions described in this order a waiver until May 24, 2004, to comply with the wireline-to-wireless porting requirement. The waiver applies to all Two Percent Carriers operating within the top 100 MSAs that had not received a request for local number porting from either a wireline carrier prior to May 24, 2003, or a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned (Covered Carriers). To the extent that a Two Percent Carrier operating within the top 100 MSAs does not meet these qualifications, it must comply with the requirements for wireline-to-wireless porting to date.

**II. BACKGROUND**

2. *Intermodal Portability.* Section 251(b) of the Communications Act of 1934, as amended (the Act) requires local exchange carriers (LECs) to provide local number portability (LNP), to the extent technically feasible, in accordance with requirements prescribed by the Commission.<sup>3</sup> Although the Act excludes Commercial Mobile Radio Service (CMRS) providers from the definition of local exchange carrier, and therefore from the section 251(b) obligation to provide number portability, the Commission has extended number portability requirements to CMRS providers.<sup>4</sup> The Commission determined that

<sup>1</sup> See 47 U.S.C. § 251(f)(2).

<sup>2</sup> The Commission received several petitions from small LECs operating in the top 100 MSAs for relief of the intermodal porting deadline of November 24, 2003. See Appendix A.

<sup>3</sup> 47 U.S.C. § 251(b)(2). Under the Act and the Commission's rules, local number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

<sup>4</sup> Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8431, paras. 152-53 (1996) (*First Report and Order*). The Commission indicated that it had independent authority under sections 1, 2, 4(i), and 332 of the Communications Act of 1934, as amended, to require CMRS carriers to provide number portability. *Id.* at para. 153. See 47 U.S.C. §§ 1, 2, 4(i), and 332.

implementation of wireless LNP, which would enable wireless subscribers to keep their phone numbers when changing carriers, would enhance competition between wireless carriers as well as promote competition between wireless and wireline carriers.<sup>5</sup>

3. After extending the wireless LNP deadline on several occasions, the Commission established November 24, 2003 as the date in which wireless carriers in the top 100 MSAs must be capable of wireless-to-wireless and wireless-to-wireline porting and wireline carriers must be capable of wireline-to-wireless porting. On November 10, 2003, we released a Memorandum Opinion and Order and Further Notice of Proposed Rule Making (*Intermodal Order*) further clarifying certain aspects of intermodal porting.<sup>6</sup> In the order, we recognized that many wireline carriers operating outside of the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability.<sup>7</sup> Therefore, we waived, until May 24, 2004, the requirement that wireline carriers operating outside the top 100 MSAs port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.<sup>8</sup>

4. *Petitions.* As the November 24, 2003 deadline approached, we received a number of petitions for waiver of the intermodal porting requirement (Waiver Petitions) from small LECs operating in the top 100 MSAs (Petitioners).<sup>9</sup> Nearly all of the Petitioners describe themselves as small telephone companies and assert that they are more similarly situated to LECs operating outside the top 100 MSAs than the large carriers operating within the top 100 MSAs.<sup>10</sup> In support of this claim, many of the Petitioners note that the intermodal porting requests that they received from CMRS providers were their first requests for any type of porting.<sup>11</sup> Because they had not previously received requests from other wireline carriers to make their systems LNP-capable, the Petitioners argue that they were at a technological disadvantage compared to most, if not all, of the larger LECs in their MSAs, which had already upgraded their systems to provide wireline-to-wireline porting. Therefore, the Petitioners request additional time to comply with the intermodal porting requirements, many requesting the same period given to LECs operating outside the top 100 MSAs.<sup>12</sup>

5. On November 21, 2003, the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperation Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies (Joint Petitioners) filed an Emergency Joint Petition for Stay and Clarification (Joint Petition) requesting that the Commission stay application of the

<sup>5</sup> *First Report and Order* at 8434-36, paras. 157-160.

<sup>6</sup> Telephone Number Portability, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. Nov. 10, 2003) (*Intermodal Order*).

<sup>7</sup> *Intermodal Order* at para. 29.

<sup>8</sup> *Id.*

<sup>9</sup> See Appendix A. Sprint Corporation (Sprint) filed oppositions to five of these petitions and comments in support of one of the petitions. See Appendix B. Additionally, Northeast Florida and Valley filed reply comments to Sprint's oppositions to their petitions. *Id.*

<sup>10</sup> See, e.g., Northeast Florida Petition at 3; Yadkin Valley Petition at 2; OTELCO Petition at 2; MoKan Petition at 3.

<sup>11</sup> See, e.g., MoKan Petition at 4; Northeast Florida at 4; United Petition at 2-3; Blountsville Petition at 3-4.

<sup>12</sup> A number of the Petitioners also claim that it was unclear, until the November 10, 2003 *Intermodal Order*, whether they would have had to act on the requests from CMRS providers that do not have points of interconnection or numbering resources in the rate centers where the customers' wireline numbers are provisioned. These Petitioners state that, because the clarification occurred only two weeks before the November 24 deadline, it would be technologically and operationally impossible to become intermodal porting capable by November 24, even with the carriers taking reasonable efforts and acting in good faith.

*Intermodal Order* with respect to Two Percent Carriers until the Commission reconsiders and/or clarifies certain aspects of that decision.<sup>13</sup> Specifically, the Joint Petitioners assert that it is technically infeasible for Two Percent Carriers to comply with the November 24, 2003 deadline,<sup>14</sup> and that the interests of all the parties involved in the port request, including the consumer, will benefit from additional time for Two Percent Carriers to face the operational and network hurdles that must be overcome to achieve a smooth transition.<sup>15</sup> Moreover, the Joint Petitioners argue that Two Percent Carriers need additional time to become capable of wireline-to-wireless porting because many of them had never been requested to support wireline-to-wireline porting and were uncertain of their intermodal porting obligations until the release of the *Intermodal Order* two weeks before the November 24, 2003.<sup>16</sup>

6. *Waiver Standard.* The Commission may, on its own motion, waive its rules when good cause is demonstrated.<sup>17</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>18</sup> In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>19</sup> Commission rules are presumed valid, however, and an applicant for waiver bears a heavy burden.<sup>20</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>21</sup>

### III. DISCUSSION

7. We find that good cause exists to grant a waiver of the wireline-to-wireless porting requirement for Covered Carriers until May 24, 2004. Special circumstances exist for Covered Carriers because of the technological and operational limitations they face in implementing the necessary modifications to provide wireline-to-wireless porting. We also find that this additional time is consistent with the public interest. Therefore, we grant the Waiver Petitions and the Joint Petition, in part, to the extent consistent with this order, and otherwise deny them.

8. *Special Circumstances.* We find that special circumstances warrant a limited deviation from the November 24, 2003 deadline for Covered Carriers. Specifically, we recognize that the Covered Carriers' networks have technological limitations that cannot be resolved immediately to comply with the wireline-to-wireless porting requirement. The Joint Petitioners and most of the Petitioners assert that, unlike the large carriers serving within the Top 100 MSAs, a number of Two Percent Carriers in those markets had not received requests from other wireline carriers for wireline-to-wireline porting prior to

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<sup>13</sup> Emergency Joint Petition for Stay and Clarification filed by the Independent Telephone and Telecommunications Alliance, the National Telecommunications Cooperation Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, filed on November 21, 2003 (Joint Petition) at 22. See Appendix A. Sprint and Nextel Communications, Inc. opposed the Joint Petition. See Appendix B

<sup>14</sup> Joint Petition at 4, 7, 12.

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.* at 7-11.

<sup>17</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>18</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (*Northeast Cellular*).

<sup>19</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>20</sup> *WAIT Radio*, 418 F.2d at 1157.

<sup>21</sup> *Id.* at 1159.

May 24, 2003.<sup>22</sup> As a result, in order to offer intermodal portability to their subscribers, these smaller carriers must acquire the hardware and software necessary to provide porting, make the necessary network upgrades, and ensure that their upgraded networks work reliably and accurately.<sup>23</sup> Some of the Petitioners also assert that Two Percent Carriers often lack the experience and technical experience with number porting to quickly implement the necessary upgrades to their systems to ensure accurate porting.<sup>24</sup> Accordingly, we conclude that special circumstances exist to grant Two Percent Carriers who have not previously upgraded their systems to support LNP a limited amount of additional time to overcome the technological obstacles they face to successfully meet a request for wireline-to-wireless porting.<sup>25</sup> Such relief is also consistent with the relief we granted, in the *Intermodal Order*, to similarly situated wireline carriers operating outside the top 100 MSAs.<sup>26</sup>

9. *Public Interest.* We likewise find that the additional time is in the public interest for Covered Carriers to become capable of providing wireline-to-wireless porting. While we continue to deem rapid implementation of number portability to be in the public interest, we also believe it to be just as important that carriers implement and test the necessary system modifications to ensure reliability, accuracy, and efficiency in the porting process.<sup>27</sup> As we found with the waiver granted to wireline carriers outside the top 100 MSAs, a transition period for Covered Carriers will help ensure a smooth transition and provide Covered Carriers sufficient time to make necessary modifications to their systems.<sup>28</sup>

10. We also agree with the Petitioners that consumers will not likely be adversely impacted by the grant of an additional six months to these carriers. According to the Petitioners, many Two Percent Carriers had not received requests or even inquiries from their customers concerning their ability to port their wireline numbers,<sup>29</sup> and some carriers have devised temporary solutions to allow at least some of their customers to port their wireline numbers if they so desire.<sup>30</sup> Therefore, we anticipate that few customers will be adversely impacted by this limited waiver.

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<sup>22</sup> See, e.g., MoKan Petition at 4; OTELCO Petition at 4, 8; Northeast Petition at 4; Blountsville Petition at 4, 9; Warwick Valley Petition at 4, 9; United Petition at 2-3, 7; YCOM Petition at 3, 8; Rio Virgin Petition at 3, 7; Egyptian Petition at 3, 8; Cascade Utilities Petition at 3, 7-8; and Laurel Highland Petition at 3, 7-8. See also Joint Petition at 7.

<sup>23</sup> See, e.g., Full Service Petition at 2. We note, however, that additional time is not necessary for Two Percent Carriers inside the top 100 MSAs that received a request to port a subscriber's number to another wireline carrier before May 24, 2003. These carriers would already have had to become LNP capable as of November 24, 2003, and therefore, would only need to make accommodations to provide wireline-to-wireless porting. Likewise, carriers would not need additional time for switches that are already LNP capable.

<sup>24</sup> See, e.g., MoKan Petition at 5; Northeast Florida at 5.

<sup>25</sup> See, e.g., MoKan Petition at 5; Northeast Florida at 5. In response to Sprint's oppositions, we note that Two Percent Carriers that were LNP capable as of November 24, 2003, or otherwise received a request from a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned, must continue to comply with the current requirements for wireline-to-wireless porting.

<sup>26</sup> *Intermodal Order* at para. 29.

<sup>27</sup> Joint Petition at 4, 18. See also MoKan Petition at 7 ("Without appropriate testing, there will be delays and errors in porting numbers, which is not in the best interest of the consumer or either carrier involved with the port.").

<sup>28</sup> *Intermodal Order* at para. 29.

<sup>29</sup> See, e.g., MoKan Petition at 6, Northeast Florida at 6.

<sup>30</sup> See, e.g., Full Service Petition at 3 (moving some of its customers from the outdated switch to UNE-P service which allows for number portability until a new switch that supports number portability is installed).

11. We disagree with Sprint's claim that such a waiver would relieve Covered Carriers of their obligations to provide wireline-to-wireless porting.<sup>31</sup> Rather the relief granted in this Order merely gives Covered Carriers additional time to overcome the technological and operations hurdles that large carriers in the top 100 MSAs did not face. Moreover, the waiver will not adversely impact rural customers because of its limited nature.

#### IV. ORDERING CLAUSE

12. Accordingly, IT IS ORDERED that, pursuant to authority contained in sections 1, 4(i), 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, we GRANT a limited waiver of the wireline-to-wireless porting requirement, until May 24, 2004, for local exchange carriers with fewer than two percent of the nation's subscriber lines in the aggregate nationwide that operate in the top 100 Metropolitan Statistical Areas and have not received a request for local number porting from either a wireline carrier prior to May 24, 2003 or a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.

13. IT IS FURTHER ORDERED, pursuant to authority contained in sections 1, 4(i), 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, that the petitions listed in Appendix A to this Order ARE GRANTED IN PART AND DENIED IN PART, to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

<sup>31</sup> See, e.g., Sprint Opposition to Bentleyville Petition at 1; Sprint Opposition to Valley Petition at 1-2; and Sprint Opposition to YCOM Petition at 1. See also, generally, Sprint Opposition to Northeast Florida Petition; Sprint Opposition to Warwick Valley Petition; and Sprint Opposition to Joint Petition.

**APPENDIX A**  
**PETITIONERS**

**Filed September 24, 2003**

North Central Telephone Cooperative, Inc. (North Central) (supplemented petition on December 8, 2003)

**Filed November 20, 2003**

Yadkin Valley Telephone Membership Corporation (Yadkin Valley)

**Filed November 21, 2003**

Armstrong Telephone Company (Armstrong)  
Bentleyville Telephone Company (Bentleyville) (\*\*)  
Blountsville Telephone Co. (Blountsville)  
Cascade Utilities, Inc. (Cascade Utilities)  
Champaign Telephone Company (Champaign) (supplemented petition on December 19, 2003)  
Chouteau Telephone Company (Chouteau)  
East Ascension Telephone Company, LLC (East Ascension)  
Egyptian Telephone Cooperative Association (Egyptian)  
Ellensburg Telephone Company (Ellensburg)  
Empire Telephone Corp. (Empire)  
E.N.M.R. Telephone Cooperative (ENMR)  
Independent Telephone and Telecommunications Alliance, the National Telecommunications  
Cooperation Association, and the Organization for the Promotion and Advancement of Small  
Telecommunications Companies (Joint Petitioners)  
Laurel Highland Telephone Company (Laurel Highland)  
Mariana and Scenery Hill Telephone Company (Mariana)  
Middleburg Telephone Company (Middleburg)  
MoKan Dial Telephone Company (MoKan)  
Northeast Florida Telephone Company (Northeast Florida)  
Orwell Telephone Company (Orwell)  
OTELCO Telephone, LLC (OTELCO)  
Pymatuning Telephone Company (Pymatuning)  
Rio Virgin Telephone Co., Inc. (Rio Virgin)  
State Telephone Co., Inc. (State)  
Taconic Telephone Corp. (Taconic)  
Tohono O'odham Utility Authority (Tohono)  
United Telephone Company (United)  
Valley Telephone Cooperative, Inc. (Valley)  
Warwick Valley Telephone Company (Warwick Valley)  
YCOM Networks, Inc. (YCOM)

**Filed November 24, 2003**

Eastern Slope Rural Telephone Association (Eastern Slope)  
Peoples Telecommunications, LLC (Peoples)  
Southern Kansas Telephone Company (Southern Kansas)  
Wheat State Telephone, Inc. (Wheat State)

**APPENDIX A**  
**PETITIONERS (CON'T)**

**Filed November 25, 2003**

Full Service Computing Corp. (Full Service)

**Filed December 11, 2003**

Green Hills Telephone Corporation (Green Hills)

**\*\*** The Bentleyville Petition has been withdrawn pursuant to the petitioner's request. *See* Telephone Number Portability, CC Docket No. 95-116, *Order*, DA 04-0069 (rel. Jan. 15, 2004).

## APPENDIX B

## OPPOSITIONS, COMMENTS, AND REPLY COMMENTS

Comments

Sprint Corporation (Sprint) filed comments in support of Yadkin Valley Petition (November 26, 2003).

Oppositions

Sprint filed oppositions to the following petitions:

- Bentleyville Petition (December 8, 2003)(\*\*);
- Joint Petition (December 10, 2003);
- Northeast Florida Petition (December 3, 2003);
- Valley Petition (December 8, 2003);
- Warwick Valley Petition (December 16, 2003); and
- YCOM Petition (December 10, 2003).

Nextel Communications, Inc. filed an ex parte opposing the Joint Petition (December 23, 2003).

Reply Comments

Northeast Florida filed reply comments to Sprint's opposition (December 10, 2003).

Valley filed reply comments to Sprint's opposition (December 18, 2003).

\*\* The Bentleyville Petition has been withdrawn pursuant to the petitioner's request. See Telephone Number Portability, CC Docket No. 95-116, *Order*, DA 04-0069 (rel. Jan. 15, 2004).



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Telephone Number Portability ) CC Docket No. 95-116  
 )  
Petition of The North-Eastern Pennsylvania )  
Telephone Company for Temporary Waiver of its )  
Porting Obligations )  
 )  
 )

ORDER

Adopted: May 12, 2004

Released: May 13, 2004

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we deny the petition filed by The North-Eastern Pennsylvania Telephone Company (NEP) seeking an extension of the May 24, 2004 deadline for implementing local number portability (LNP or porting).<sup>1</sup> We find that NEP has not demonstrated that special circumstances warrant a waiver or that such an extension is in the public interest. We will not, however, enforce NEP's LNP obligations until sixty days after the release of this Order to provide NEP with an opportunity to make arrangements to come into compliance with its LNP obligations.

II. BACKGROUND

2. Local Number Portability. Section 251(b) of the Communications Act of 1934, as amended, (Act)<sup>2</sup> mandates local exchange carriers (LECs) to provide LNP in accordance with the requirements outlined by the Commission.<sup>3</sup> The Commission, in the *Number Portability First Report and Order*, established the parameters for LNP and required commercial mobile radio service (CMRS or wireless)

<sup>1</sup> See Petition of The North-Eastern Pennsylvania Telephone Company Petition for Waiver of Section 52.23(b) of the Commission's Rules, filed March 23, 2004 (NEP Petition). The NEP petition was placed on public notice on March 26, 2004. See *Wireline Competition Bureau Seeks Comment on the Petition of The North-Eastern Pennsylvania Telephone Company for Temporary Waiver of the Commission's Number Portability Requirements*, Public Notice, CC Docket No. 95-116, DA 04-798 (rel. March 26, 2004). Comments were filed by Cellular Telecommunications & Internet Association (CTIA), Dobson Communications Corporation (Dobson), Nextel Communications, Inc. (Nextel) and Verizon Wireless (Verizon), and reply comments were filed by National Telecommunications Cooperative Association (NTCA), NEP, and T-Mobile USA, Inc. (T-Mobile).

<sup>2</sup> 47 U.S.C. §§ 151-174.

<sup>3</sup> 47 U.S.C. §251(b).

providers to become LNP-capable pursuant to sections 1, 2, 4(i), and 332 of the Act.<sup>4</sup> In doing so, the Commission concluded that the public interest is served by making LNP available across different technologies and thereby promoting competition between CMRS service providers and wireline carriers.<sup>5</sup> Initially, CMRS providers were required to become LNP-capable by June 30, 1999.<sup>6</sup> The Commission subsequently extended this deadline, and required CMRS carriers operating in the top 100 Metropolitan Statistical Areas (MSAs) to provide number portability upon request by another carrier by November 24, 2003.<sup>7</sup> CMRS carriers operating outside the top 100 MSAs must become LNP-capable within six months of a request or by May 24, 2003, whichever is later.<sup>8</sup> On November 10, 2003, the Commission concluded that, as of November 24, 2003, LECs 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, provided that the porting-in carrier maintains the number's original rate center designation following the port.<sup>9</sup> The Commission, however, granted wireline carriers operating in areas outside of the 100 largest MSAs, in certain circumstances, a waiver until May 24, 2004 of the requirement to port numbers to wireless carriers.<sup>10</sup> The Commission later granted certain LECs with fewer than two percent of the nation's subscriber lines in the aggregate nationwide (Two Percent Carriers) that operate in the top 100 MSAs a limited waiver of the wireline-to-wireless porting requirement.<sup>11</sup>

3. *NEP's Request for Waiver.* NEP is a rural incumbent LEC providing service in Northeast Pennsylvania.<sup>12</sup> NEP represents that it decided, in 2001, to upgrade its switch network and sought

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<sup>4</sup> *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8431-42 (1996) (*Number Portability First Report and Order*).

<sup>5</sup> See *id.* at 8432, ¶ 153.

<sup>6</sup> *Id.* at 8440, ¶ 166.

<sup>7</sup> See *Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, Memorandum Opinion and Order, 17 FCC Rcd 14972 (2002) (*Verizon Wireless LNP Forbearance Order*); *Cellular Telecommunications & Internet Association v. FCC*, No. 02-1264 (D.C. Cir. June 6, 2003) (Dismissing in part and denying in part CTIA's appeal of the Commission's decision in the *Verizon Wireless LNP Forbearance Order*). CMRS carriers were required to be LNP-capable by November 24, 2003 if requests from other carriers were received by February 24, 2003. *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14985-86. The *Verizon Wireless LNP Forbearance Order* also lays out the history of the CMRS carriers' LNP deadline extensions. See also, *Western Wireless Limited, Conditional Petition for Waiver of Local Number Portability and Thousands-Block Number Pooling Obligations*, CC Docket Nos. 95-116 and 99-200, Order, 18 FCC Rcd 24692 (Wireline Comp. Bur. 2003) (*Western Wireless Order*).

<sup>8</sup> *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14986.

<sup>9</sup> See *Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, 23706-07 (2003) (*Intermodal LNP Order*).

<sup>10</sup> *Id.*

<sup>11</sup> *Telephone Number Portability*, Order, 19 FCC Rcd 875 (2004).

<sup>12</sup> NEP's existing switch network consists of eight exchanges. These exchanges include the Union Dale, Harford, New Milford, Jackson, Thompson, Pleasant Mount, Clifford, and Forest City exchanges. See NEP Petition at 2, 5.

informal quotes from various switch equipment manufacturers at that time.<sup>13</sup> NEP subsequently concluded that it would be more efficient and economical to replace its existing switches with software based switch ("soft switch") technology.<sup>14</sup> Accordingly, in March 2003, NEP sought formal quotes and proposals from several switch manufacturers for soft switches.<sup>15</sup> In September 2003, NEP contracted with Taqua, Inc. (Taqua) to purchase eight soft switches to be installed on a phased-in basis, beginning on May 1, 2004 and ending on December 31, 2005.<sup>16</sup> However, according to NEP, certain service feature implementation issues need to be resolved before the first switch can be put into service.<sup>17</sup> NEP requests a waiver to provide additional time to accommodate the deployment schedule for its eight exchanges and to resolve the implementation issues.<sup>18</sup>

4. NEP contends good cause exists for granting an extension of the May 24, 2004 porting implementation deadline.<sup>19</sup> Specifically, NEP maintains that it has been planning and implementing network upgrades since 2001 to address expected network capability requirements.<sup>20</sup> NEP argues that it did not anticipate that intermodal porting<sup>21</sup> would be an "imminent requirement" until the Commission's *Intermodal LNP Order* released in November 2003.<sup>22</sup> Upon release of the order, NEP contends that it immediately reviewed its number portability plans with Taqua.<sup>23</sup> NEP maintains that, while working with Taqua to resolve certain service feature issues, it became apparent to NEP that it will be unable to meet the May 24, 2004 implementation deadline for all of its switches.<sup>24</sup> Further, NEP states that it will provide the Commission with quarterly progress reports and updates to the deployment schedule, including solutions that will allow NEP to advance its deployment schedule and number portability.<sup>25</sup>

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<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.* at 3, 5.

<sup>17</sup> *Id.* at 3.

<sup>18</sup> *See id.* at 5. NEP's projected switch in-service date for its eight exchanges is as follows: (1) Union Dale - May 1, 2004; Harford - June 30, 2004; New Milford - September 30, 2004; Jackson - December 31, 2004; Thompson - March 31, 2005; Pleasant Mount - June 30, 2005; Clifford - September 30, 2005; and Forest City - December 31, 2005. *Id.* NEP notes, however, that this deployment schedule is dependent on Taqua's resolution of service feature problems and the successful deployment of LNP. *Id.*

<sup>19</sup> *Id.* at 1; NEP Reply Comments at 1-2.

<sup>20</sup> NEP Petition at 2-3.

<sup>21</sup> Intermodal porting is porting between wireline and wireless service providers.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 5.

<sup>25</sup> *Id.* at 6.

5. CTIA, Dobson, Nextel, Verizon, and T-Mobile oppose granting NEP's waiver.<sup>26</sup> They argue that NEP has not demonstrated through substantial, credible evidence that special circumstances justify a waiver of the Commission's LNP rules.<sup>27</sup> They also contend that the public interest would not be served if such waiver is granted.<sup>28</sup> Specifically, they argue that grant of NEP's waiver would undermine the Commission's goal of promoting competition and cause customer confusion.<sup>29</sup>

6. One commenter, NTCA, supports NEP's petition.<sup>30</sup> NTCA maintains that, because NEP is moving toward full compliance with its LNP obligations, the Commission should provide NEP with a temporary waiver.<sup>31</sup> NTCA contends that large carriers, such as Nextel and Verizon, fail to take into account the financial, technical, and staffing realities of small LECs.<sup>32</sup> According to NTCA, it would have been financially irresponsible for NEP to upgrade its equipment prior to having a firm obligation to do so.<sup>33</sup>

7. Waiver Standard. The Commission's rules may be waived when good cause is demonstrated.<sup>34</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>35</sup> In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>36</sup> Commission rules are presumed valid, however, and an applicant for waiver bears a heavy burden.<sup>37</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>38</sup>

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<sup>26</sup> See CTIA Comments at 1-2; Dobson Comments at 1-2; Nextel Comments at 1-3; Verizon Comments at 1-3; T-Mobile Reply Comments at 1-2.

<sup>27</sup> See CTIA Comments at 2-3; Dobson Comments at 3-8; Nextel Comments at 3-6; Verizon Comments at 3-4; T-Mobile Reply Comments at 2-4.

<sup>28</sup> See CTIA Comments at 3; Dobson Comments at 8; Nextel Comments at 7-8; Verizon Comments at 5-7; T-Mobile Comments at 4-5.

<sup>29</sup> *Id.*

<sup>30</sup> See NTCA Reply Comments.

<sup>31</sup> See *id.* at 1.

<sup>32</sup> *Id.* at 3.

<sup>33</sup> *Id.* at 2-3.

<sup>34</sup> 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>35</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (*Northeast Cellular*).

<sup>36</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>37</sup> *WAIT Radio*, 418 F.2d at 1157.

<sup>38</sup> *Id.* at 1159.

8. In seeking an extension of the LNP deployment deadline, a carrier must provide substantial, credible evidence to support its contention that it is unable to comply with the deployment schedule.<sup>39</sup> A request for an extension of a deadline must be filed with the Commission at least sixty days in advance of the deadline.<sup>40</sup>

### III. DISCUSSION

9. We find that NEP has not demonstrated good cause to justify waiving the May 24, 2004 porting deadline. In particular, we agree with those commenters who argue that NEP has not shown through substantial, credible evidence that special circumstances warrant an extension of the porting deadline until December 31, 2005 and that postponing porting as requested will serve the public interest.<sup>41</sup> We decline, however, to enforce NEP's LNP obligations for sixty days following the release of this Order.

10. *Special Circumstances.* We are not persuaded by NEP's claims that special circumstances exist warranting a waiver of the May 24, 2004 porting deadline in order to accommodate NEP's switch delivery and deployment schedule, and provide additional time to resolve any service feature issues. We find that NEP has not presented "extraordinary circumstances beyond its control in order to obtain an extension of time."<sup>42</sup> Rather, NEP consciously made a business decision to upgrade its switches on a certain schedule.<sup>43</sup> NEP has not shown that challenges it may face are different from those faced by similarly situated carriers who are able to comply.<sup>44</sup> Generalized references to limited resources and implementation problems do not constitute substantial, credible evidence justifying an exemption from the porting requirements. NEP has known since 1996 that it would need to support LNP within six months of a request from a competing carrier.<sup>45</sup> Although wireless LNP was delayed, all carriers have been on notice since July 2002 that wireless and intermodal LNP would become available beginning in November 2003.<sup>46</sup> Thus, NEP has had sufficient time to follow through with these mandates and prepare for LNP.<sup>47</sup>

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<sup>39</sup> 47 C.F.R. § 52.23(e); *see also* 47 C.F.R. § 52.31(d).

<sup>40</sup> *Id.*

<sup>41</sup> *See* CTIA Comments at 2-3; Dobson Comments at 3-8; Nextel Comments at 3-6; Verizon Comments at 3-4; T-Mobile Reply Comments at 2-4.

<sup>42</sup> *Number Portability First Report and Order*, 11 FCC Rcd at 8397, ¶ 85.

<sup>43</sup> *See supra* ¶ 3.

<sup>44</sup> *See Western Wireless Order*, 18 FCC Rcd at 24696, ¶ 10 (in denying a waiver request to extend the thousands-block number pooling and LNP deadlines, the Bureau found that "Western ha[d] not demonstrated that it will sustain costs that are different from, or burdensome than, the costs of similarly situated Tier II wireless carriers").

<sup>45</sup> *See Number Portability First Report and Order*, 11 FCC Rcd 8352; *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7273-75, ¶¶ 60-66 (1997) (*Number Portability Reconsideration Order*).

<sup>46</sup> *See Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd 14972.

<sup>47</sup> *See Western Wireless Order*, 18 FCC Rcd at 24697-98, ¶ 13.  
(continued....)

11. *Public Interest.* We also conclude that an extension of the porting deadline until December 31, 2005 would not serve the public interest because it would unduly delay the benefits of number portability to the public and could cause customer confusion. Portability has promoted, and will continue to promote, competition, especially in underserved areas, by allowing consumers to move to carriers that better serve consumers' needs without having to make the difficult choice to give up their numbers.<sup>48</sup> Thus, we find that the public interest would be served by implementing porting as soon as possible.

12. Furthermore, NEP should have considered the porting requirements, set out by the Commission long ago, when it contracted with vendors to install necessary upgrades. Accordingly, we conclude that granting NEP's request to extend the porting deadline would be inconsistent with the Commission's policy to promote competition, consumer choice, and efficient number use. We therefore deny NEP's request for a waiver of the May 24, 2004 porting implementation deadline.

13. Although we are not persuaded that a waiver of the porting requirements until December 31, 2005 is justified, we decline to enforce NEP's LNP obligations for sixty days following the release of this Order.<sup>49</sup> We find that some limited time to allow NEP to make the necessary preparations to implement LNP is reasonable to ensure compliance with our rules.<sup>50</sup> Non-enforcement for sixty days will also help to avoid any network disruptions, maximize trouble-free operation of LNP, and ensure that customers' requests for services will not be delayed due to carriers' difficulty in obtaining numbering resources.<sup>51</sup>

(Continued from previous page) \_\_\_\_\_

<sup>48</sup> *Verizon Wireless LNP Forbearance Order*, 17 FCC Rcd at 14984, ¶ 28.

<sup>49</sup> *See Western Wireless Order*, 18 FCC Rcd 24692 (in denying Western's petition for waiver to extend the thousands-block number pooling (pooling) and LNP deadlines, the Bureau found that a sixty-day non-enforcement period would provide Western the time needed to properly implement and commence LNP and pooling).

<sup>50</sup> *Id.* at 24698, ¶ 16.

<sup>51</sup> *Id.*

**IV. ORDERING CLAUSE**

14. Accordingly, IT IS ORDERED that, pursuant to authority contained in sections 1, 4(i), 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, and the authority delegated under sections 0.91, 0.291, 1.3, 52.9(b), and 52.23(e) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 52.9(b), 52.23(e), the petition filed by The North-Eastern Pennsylvania Telephone Company is DENIED to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Deputy Chief, Wireline Competition Bureau

Exhibit Williams Direct - 3 BFR Summary - South Dakota

Telco Name	OCN	Date BFR Sent to Telco	Date Response Sent From Telco	Respondents Name	Date Operation Agreement Sent to Telco
Valley Telecom Cooperative Association, Inc.	1685	11/18/2003	12/1/2003	Steve Oleson	12/19/2003
Santel Communications Cooperative, Inc.	1676	11/18/2003	12/2/2003	Darla Pollman Rogers	12/19/2003
Stockhom-Strandburg Telephone Co.	1679	11/18/2003	12/3/2003	Darla Pollman Rogers	12/19/2003
Cheyenne River Sioux Tribe Telephone Authority	1647	11/18/2003	12/16/2003	J.D. Williams	12/10/2003
Vivian Telephone dba Golden West Telecom.	1686	11/18/2003	11/19/2003	George Strandell	12/19/2003
Bridgewater-Canistota Ind. Tel. Co. - Golden West	0158	11/18/2003	11/19/2003	George Strandell	12/19/2003
Armour Independent Telephone Co. - Golden West	1640	11/18/2003	11/19/2003	George Strandell	12/19/2003
Sioux Valley Telephone Company - Golden West	1677	11/18/2003	11/19/2003	George Strandell	12/19/2003
Midstate Communications, Inc.	1670	11/18/2003	12/12/2003	Peggy Reinesch	12/10/2003
McCook Cooperative Telephone Co.	1669	11/18/2003	12/2/2003	Darla Pollman Rogers	12/19/2003
City of Faith Municipal Telephone Company	1653	11/18/2003	N/A	N/A	12/10/2003
West River Telephone Cooperative Company	1689	11/18/2003	11/24/2003	Jerry Reisenauer	12/19/2003
Beresford Municipal Telephone Company	1649	11/18/2003	11/21/2003	Wayne Akland	12/19/2003
Alliance Communications	1657	11/18/2003	2/2/2004	Don Snyders	12/10/2003
James Valley Cooperative Telephone Company	1664	11/18/2003	11/19/2003	George Strandell	12/19/2003
Kadoka Telephone Co. - Golden West	1667	11/18/2003	11/19/2003	George Strandell	12/19/2003
Golden West Telecommunications	1659	11/18/2003	11/19/2003	George Strandell	12/19/2003
Union Telephone Co. - Golden West	1684	11/18/2003	11/19/2003	George Strandell	12/19/2003
Venture Communications Cooperative	1680	11/18/2003	12/2/2003	Darla Pollman Rogers	N/A
Interstate Telecom Coop, Inc.	1651	11/18/2003	11/21/2003	Jerry Heiberger	12/19/2003
RC Communications	1662	11/18/2003	11/21/2003	Pamela Harrington	12/19/2003
Kennebec Telephone Co.	1668	11/18/2003	11/21/2003	Rod Bowar	12/19/2003
Swiftel Communications - Brookings Municipal Util.	1650	11/18/2003	N/A	N/A	12/19/2003
Roberts County Telephone Cooperative Assoc.	1674	11/18/2003	11/21/2003	Pamela Harrington	12/19/2003



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of  
Telephone Number Portability

CTIA Petitions for Declaratory Ruling on  
Wireline-Wireless Porting Issues

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CC Docket No. 95-116

**MEMORANDUM OPINION AND ORDER AND FURTHER NOTICE OF PROPOSED  
RULEMAKING**

**Adopted:** November 7, 2003

**Released:** November 10, 2003

By the Commission: Chairman Powell, Commissioners Abernathy, Copps, Martin, and Adelstein issuing  
separate statements.

**Comment Date:** 20 days after publication in the Federal Register.

**Reply Comment Date:** 30 days after publication in the Federal Register.

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Appendix A – List of Commenters

Appendix B - Initial Regulatory Flexibility Analysis

## I. INTRODUCTION

1. In this order, we provide guidance to the industry on local number portability (LNP) issues relating to porting between wireless and wireline carriers (intermodal porting). First, in response to a Petition for Declaratory Ruling filed on January 23, 2003, by the Cellular Telecommunications and Internet Association (CTIA), we clarify that nothing in the Commission's rules limits porting between wireline and wireless carriers to require the wireless carrier to have a physical point of interconnection<sup>1</sup> or numbering resources in the rate center where the number is assigned. We find that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's "coverage area" overlaps the geographic location in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port. The wireless "coverage area" is the area in which wireless service can be received from the wireless carrier. In addition, in response to a subsequent CTIA petition, we clarify that wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between the carriers. We also decline to adopt a mandatory porting interval for wireline-to-wireless ports at the present time, but we seek comment on the issue as noted below.

2. In the accompanying Further Notice of Proposed Rulemaking (Further Notice), we seek comment on how to facilitate wireless-to-wireline porting if the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer. In addition, we seek comment on whether we should require carriers to reduce the length of the porting interval for ports between wireless and wireline carriers.

## II. BACKGROUND

### A. Statutory and Regulatory Background

3. Section 251(b) of the Communications Act of 1934, as amended (the Act) requires local exchange carriers (LECs) to provide local number portability, to the extent technically feasible, in accordance with requirements prescribed by the Commission.<sup>2</sup> Under the Act and the Commission's rules, local number portability is defined as "the ability of users of telecommunications services to retain,

<sup>1</sup> Referred to hereinafter as "point of interconnection."

<sup>2</sup> 47 U.S.C. § 251(b)(2).

at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>3</sup>

4. The Commission released the Local Number Portability *First Report and Order* in 1996, which promulgated rules and deployment schedules for the implementation of number portability.<sup>4</sup> The Commission highlighted the critical policy goals underlying the LNP requirement, indicating that “the ability of end users to retain their telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of telecommunications services they can choose to purchase.”<sup>5</sup> The Commission found that “number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers.”<sup>6</sup>

5. The Commission adopted broad porting requirements, noting that “as a practical matter, [the porting obligation] requires LECs to provide number portability to other telecommunications carriers providing local exchange or exchange access service within the same MSA.”<sup>7</sup> In addition, the Commission noted the section 251(b) requires LECs to port numbers to wireless carriers. The Commission stated that “section 251(b) requires local exchange carriers to provide number portability to all telecommunications carriers, and thus to Commercial Mobile Radio Service (CMRS) providers as well as wireline service providers.”<sup>8</sup>

6. The Commission adopted rules implementing the LNP requirements. Section 52.21(k) of the rules defines number portability to mean “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>9</sup> Section 52.23(b)(1) provides that “all local exchange carriers (LECs) must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998 ... in switches for which another carrier has made a specific request for the provision of number portability ...”<sup>10</sup> Finally, Section 52.23(b)(2)(i) of the Commission rules provides that “any wireline carrier that is certified ... to provide local exchange service, or any licensed CMRS provider, must be permitted to make a request for the provision of number portability.”<sup>11</sup>

7. In 1997, in the Local Number Portability *Second Report and Order*, the Commission adopted recommendations from the North American Numbering Council (NANC) for the implementation of

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<sup>3</sup> 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k).

<sup>4</sup> Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (First Report and Order).

<sup>5</sup> *Id.* at 8368, para. 30.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 8393, para. 77.

<sup>8</sup> *Id.* at 8431, para. 152.

<sup>9</sup> 47 C.F.R. § 52.21(k).

<sup>10</sup> 47 C.F.R. § 52.23(b)(1).

<sup>11</sup> 47 C.F.R. § 52.23(b)(2)(i).

wireline-to-wireline number portability.<sup>12</sup> Under the guidelines developed by the NANC, porting between LECs was limited to carriers with facilities or numbering resources in the same rate center to accommodate technical limitations associated with the proper rating of wireline calls.<sup>13</sup> The NANC guidelines made no recommendations regarding limitations on intermodal porting.

8. Although the Act excludes CMRS providers from the definition of local exchange carrier, and therefore from the section 251(b) obligation to provide number portability, the Commission has extended number portability requirements to CMRS providers.<sup>14</sup> In the Local Number Portability *First Report and Order*, the Commission indicated that it had independent authority under sections 1, 2, 4(i), and 332 of the Communications Act of 1934, as amended, to require CMRS carriers to provide number portability.<sup>15</sup> The Commission noted that “sections 2 and 332(c)(1) of the Act give the Commission authority to regulate commercial mobile radio service operators as common carriers ...”<sup>16</sup> Noting that section 1 of the Act requires the Commission to make available to people of the United States, a rapid, efficient, nation-wide and world-wide wire and radio communication service, the Commission stated that its interest in number portability “is bolstered by the potential deployment of different number portability solutions across the country, which would significantly impact the provision of interstate telecommunications services.”<sup>17</sup> Section 4(i) of the Act grants the Commission authority to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with [the Communications Act of 1934, as amended] as may be necessary in the execution of its functions.”<sup>18</sup> The Commission concluded that “the public interest is served by requiring the provision of number portability by CMRS providers because number portability will promote competition between providers of local telephone services and thereby promote competition between providers of interstate access services.”<sup>19</sup>

9. The Commission determined that implementation of wireless LNP, which would enable wireless subscribers to keep their phone numbers when changing carriers, would enhance competition between wireless carriers as well as promote competition between wireless and wireline carriers.<sup>20</sup> The

<sup>12</sup> Telephone Number Portability, CC Docket No. 95-116, *Second Report and Order*, 12 FCC Rcd 12,281 (1997) (*Second Report and Order*). The requirement that LECs port numbers to wireless carriers has not been applied previously due to extensions of the deadline for wireless carriers’ implementation of LNP. See Telephone Number Portability, Cellular Telecommunications & Industry Association’s Petition for Extension of Implementation Deadlines, CC Docket No. 95-116, *Memorandum Opinion and Order*, 13 FCC Rcd 16315 (1998); Telephone Number Portability, Cellular Telecommunications & Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Memorandum Opinion and Order*, 14 FCC Rcd 3092 (1999); and Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184 and CC Docket No. 95-116, *Memorandum Opinion and Order*, 17 FCC Rcd 14972 (2002).

<sup>13</sup> North American Numbering Council Local Number Portability Selection Working Group Final report and Recommendation to the FCC, Appendix D at 6 (rel. April 25, 1997). This report is available at <http://www.fcc.gov/wcb/tapd/nanc/lnpastuf.html>.

<sup>14</sup> *First Report and Order* at 8431, paras 152-53.

<sup>15</sup> *Id.* at para. 153. See 47 U.S.C. §§ 1, 2, 4(i), and 332.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 8432, para. 153.

<sup>18</sup> 47 U.S.C. § 154(i).

<sup>19</sup> *First Report and Order* at 8432, para. 153.

<sup>20</sup> *Id.* at 8434-36, paras. 157-160.

Commission noted that "service provider portability will encourage CMRS-wireline competition, creating incentives for carriers to reduce prices for telecommunications services and to invest in innovative technologies, and enhancing flexibility for users of telecommunications services."<sup>21</sup> Commission rules reflecting the wireless LNP requirement provide that, by the implementation deadline, "all covered CMRS providers must provide a long-term database method for number portability ... in switches for which another carrier has made a request for the provision of LNP."<sup>22</sup>

10. In the Local Number Portability *Second Report and Order*, after adopting NANC guidelines applicable to wireline-to-wireline porting, the Commission directed the NANC to develop standards and procedures necessary to provide for wireless carriers' participation in local number portability.<sup>23</sup> The Commission indicated its expectation that changes to LNP processes would need to be made to accommodate porting to wireless carriers. The Commission noted that "the industry, under the auspices of NANC, will probably need to make modifications to local number portability standards and processes as it gains experience in implementing number portability and obtains additional information about incorporating CMRS providers into a long-term number portability solution and interconnecting CMRS providers with wireline carriers already implementing their number portability obligations."<sup>24</sup> In addition, the Commission noted that the NANC would have to consider issues of particular concern to wireless carriers, including how to account for differences between service area boundaries for wireline versus wireless services.<sup>25</sup>

11. In 1998, the NANC submitted a report on the integration of wireless and wireline number portability from its Local Number Portability Administration (LNPA) Working Group to the Common Carrier Bureau (now known as the Wireline Competition Bureau).<sup>26</sup> The report discussed technical issues associated with wireless-to-wireline porting. The report noted that differences between the local serving areas of wireless and wireline carriers affected the porting capabilities of each type of carrier, making it infeasible for some wireline carriers to port-in numbers from wireless subscribers. The report explained that because wireline service is fixed to a specific location the subscriber's telephone number is limited to use within the rate center within which it is assigned.<sup>27</sup> By contrast, the report noted, because wireless service is mobile and not fixed to a specific location, while the wireless subscriber's number is associated with a specific geographic rate center, the wireless service is not limited to use within that rate center.<sup>28</sup> As a result of these differences, the report indicated that, if a wireless subscriber seeks to port his or her number to a wireline carrier, but the subscriber's NPA-NXX is outside of the wireline rate center where the subscriber is located, the wireline carrier may not be able to receive the ported number.<sup>29</sup> The NANC did not reach consensus on a solution to this issue, and reported that this lack of symmetry, referred to as

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<sup>21</sup> *Id.* at 8437, para. 160.

<sup>22</sup> 47 C.F.R. § 52.31(a).

<sup>23</sup> *Second Report and Order* at 12333, para. 90.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 12334, para. 91.

<sup>26</sup> North American Numbering Council Local Number Portability Administration Working Group Report on Wireless Wireline Integration, May 8, 1998, CC Docket No. 95-116 (filed May 18, 1998) (First Report on Wireless Wireline Integration).

<sup>27</sup> *Id.* at 7.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

“rate center disparity,” raises questions by some carriers about competitive neutrality.<sup>30</sup> The Common Carrier Bureau sought comment on the NANC report.<sup>31</sup>

12. The NANC submitted a second report on the integration of wireless and wireline number portability to the Commission in 1999,<sup>32</sup> and a third report in 2000,<sup>33</sup> both focusing on porting interval issues. The second report provided an analysis of the wireline porting interval and considered alternatives to reduce the porting interval for ports between wireless and wireline carriers.<sup>34</sup> The report recommended that each potential alternative be thoroughly developed and investigated.<sup>35</sup> The third report again analyzed the elements of the wireline porting interval and examined whether the length of the porting interval for both intermodal ports and wireline-to-wireline ports could be reduced.<sup>36</sup> The NANC determined that the wireline porting interval should not be reduced, but it was unable to reach a consensus on an intermodal porting interval.<sup>37</sup> Accordingly, we seek comment on the appropriate interval for intermodal porting.<sup>38</sup>

### **B. Outstanding Petitions for Declaratory Ruling**

13. On January 23, 2003, CTIA filed a petition requesting that the Commission issue a declaratory ruling that wireline carriers have an obligation to port their customers' telephone numbers to wireless carriers whose service areas overlap the wireline rate center that is associated with the number.<sup>39</sup> In its petition, CTIA claims that some LECs have narrowly construed their LNP obligations with regard to wireless carriers, taking the position that portability is only required where the wireless carrier receiving the number already has a point of presence or numbering resources in the wireline rate center.<sup>40</sup> CTIA urges the Commission to confirm that wireline carriers have an obligation to port to wireless carriers when their respective service areas overlap. CTIA notes that, in several of its decisions, the Commission has found that LNP is necessary to promote competition between the wireless and wireline

<sup>30</sup> Letter from Alan C. Hasselwander, Chairman, NANC to A. Richard Metzger, Jr., Chief, Common Carrier Bureau (filed Apr. 14, 1998).

<sup>31</sup> Common Carrier Bureau Seeks Comment on North American Numbering Council Recommendation Concerning Local Number Portability Administration Wireline and Wireless Integration, CC Docket No. 95-116, *Public Notice*, 13 FCC Rcd 17342 (1998).

<sup>32</sup> North American Numbering Council Local Number Portability Administration Working Group Second Report on Wireless Wireline Integration, June 30, 1999, CC Docket No. 95-116 (filed Nov. 4, 1999) (Second Report on Wireless Wireline Integration).

<sup>33</sup> North American Numbering Council Local Number Portability Administration Working Group Third Report on Wireless Wireline Integration, Sept. 30, 2000, CC Docket no. 95-116 (filed Nov. 29, 2000) (Third Report on Wireless Wireline Integration).

<sup>34</sup> Second Report on Wireless Wireline Integration at section 3.

<sup>35</sup> *Id.* at section 1.1.

<sup>36</sup> Third Report on Wireless Wireline Integration at section 3.

<sup>37</sup> Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau, (filed Nov. 29, 2000).

<sup>38</sup> See paras. 45-51, *infra*.

<sup>39</sup> CTIA Petition for Declaratory Ruling, CC Docket No. 95-116 (filed Jan. 23, 2003) (January 23<sup>rd</sup> Petition).

<sup>40</sup> *Id.* at 3.

industries. CTIA argues that, without Commission action to resolve the deadlock over the rate center disparity issue, the reality of wireline-to-wireless porting will be at risk because many wireline subscribers will be unable to port their numbers to wireless carriers that serve their areas.<sup>41</sup>

14. CTIA also requests that the Commission confirm that a wireline carrier's obligation to port numbers to a wireless carrier can be based on a service-level porting agreement between the carriers, and does not require an interconnection agreement. According to CTIA, number portability requires only that a carrier release a customer's number to another carrier and assign the number to the new carrier in the Number Portability Administration Center (NPAC) database, which is queried solely to identify the carrier that can terminate calls to the customer.<sup>42</sup>

15. The majority of wireless carriers submitting comments support CTIA's request for declaratory ruling. They agree with CTIA that, without Commission action to resolve the rate center issue, the majority of wireline customers will be prevented from porting their number to a wireless carrier.<sup>43</sup> They call for the Commission to reject any proposal that would restrict porting to rate centers where a wireless carrier has already obtained numbers, contending that such a limitation would be inconsistent with the competitive objectives of intermodal LNP and would waste numbering resources.<sup>44</sup>

16. Wireline carriers generally oppose CTIA's petition.<sup>45</sup> Some argue that requiring LECs to port to carriers who do not have a point of interconnection or numbering resources in the same rate center in which the number is assigned would give wireless carriers an unfair competitive advantage over wireline carriers.<sup>46</sup> LECs argue that, in contrast to wireless carriers who have flexibility in establishing their service areas and rates, wireline carriers are governed by state regulations. Under the state regulatory regime, they rate and route local and toll calls based on wireline rate centers. Consequently, LECs contend, wireline service providers do not have the same opportunity that wireless carriers have to offer number portability where the rate center in which the number is assigned does not match the rate center in which the LEC seeks to serve the customer.<sup>47</sup> Others argue that CTIA's petition would amount to a system of location portability rather than service provider portability, causing customer confusion over

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<sup>41</sup> *Id.* at 19.

<sup>42</sup> *Id.* at 3.

<sup>43</sup> AT&T Wireless, Midwest Wireless, Nextel, Sprint, T-Mobile, and US Cellular all filed comments supporting CTIA's January 23<sup>rd</sup> petition. Comments and Reply Comments filed in response to the CTIA's January 23<sup>rd</sup> and May 13<sup>th</sup> petitions are listed in Appendix A.

<sup>44</sup> *See, e.g.*, Sprint Reply Comments on CTIA's January 23<sup>rd</sup> Petition at 9; T-Mobile Comments on CTIA's January 23<sup>rd</sup> Petition at 14-15; and Virgin Mobile Reply Comments on CTIA's January 23<sup>rd</sup> Petition at 4.

<sup>45</sup> Centurytel, Fred Williams & Associates, the Independent Alliance, the Michigan Exchange Carriers Association, NECA and NTCA, the Nebraska Rural Independent Companies, OPASTCO, SBC, TCA, USTA, and Valor Communications all filed comments opposing CTIA's January 23<sup>rd</sup> petition.

<sup>46</sup> *See, e.g.*, Centurytel Comments on CTIA's January 23<sup>rd</sup> Petition at 5-6; Fred Williams & Associates Comments on CTIA's January 23<sup>rd</sup> Petition at 8; SBC Comments on CTIA's January 23<sup>rd</sup> Petition at 1; Letter from Cronan O'Connell, Vice President-Federal Regulatory, Qwest to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116 (filed Oct. 9, 2003) (Qwest Oct. 9<sup>th</sup> *Ex Parte*); and Letter from Kathleen B. Levitz, Vice President-Federal Regulatory, BellSouth to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116 (filed Sept. 9, 2003) (BellSouth Sept. 9<sup>th</sup> *Ex Parte*).

<sup>47</sup> *See, e.g.*, Letter from James C. Smith, Senior Vice President, SBC Telecommunications, Inc. to Michael K. Powell, Chairman, FCC, CC Docket No. 95-116 (filed Aug. 29, 2003) (SBC Aug. 29<sup>th</sup> *Ex Parte*); and BellSouth Sept. 9<sup>th</sup> *Ex Parte*.

the rating of calls.<sup>48</sup> Several LECs also argue that the Commission may not permit intermodal porting outside of wireline rate center boundaries without first issuing a Notice of Proposed Rulemaking.<sup>49</sup> Several rural LECs argue that requiring porting between wireline and wireless carriers where the wireless carriers do not have a point of interconnection in the same rate center as the ported number would raise intercarrier compensation issues, as wireline carriers would be required to transport calls to ported numbers through points of interconnection outside of rural LEC serving areas.<sup>50</sup>

17. On May 13, 2003, CTIA filed a second Petition for Declaratory Ruling. In its petition, CTIA argues that, in addition to the rate center issue that was the subject of its January petition, there are additional LNP implementation issues that have not been resolved by industry consensus and therefore must be addressed by the Commission.<sup>51</sup> Specifically, CTIA requests that the Commission rule on the appropriate length of the porting interval, the necessity of interconnection agreements, a dispute between BellSouth and Sprint concerning the ability of carriers to designate different routing and rating points, definition of the largest 100 Metropolitan Statistical Areas (MSAs), the bona fide request requirement, and whether carriers must support nationwide roaming for customers with ported numbers.

18. On October 7, 2003, we released a Memorandum Opinion and Order addressing carrier requests for clarification of wireless-wireless porting issues.<sup>52</sup> In response to CTIA's May 13<sup>th</sup> petition as well as a Petition for Declaratory Ruling/Application for Review, we concluded that wireless carriers may not impose "business rules" on their customers that purport to restrict carriers' obligations to port numbers upon receipt of a valid request to do so. In addition, we clarified that wireless-to-wireless porting does not require the wireless carrier receiving the number to be directly interconnected with the wireless carrier that gives up the number or to have numbering resources in the rate center associated with the ported number. We clarified that, although wireless carriers may voluntarily negotiate interconnection agreements with one another, such agreements are not required for wireless-to-wireless porting. We confirmed also that, in cases where wireless carriers are unable to reach agreement regarding the terms and conditions of porting, all such carriers must port numbers upon receipt of a valid request from another carrier, with no conditions.

19. We encouraged wireless carriers to complete "simple" ports within the industry-established two and one half hour porting interval and found that no action was necessary regarding the porting of numbers served by Type 1 interconnection because carriers are migrating these numbers to switches served by Type 2 interconnection or are otherwise developing solutions.<sup>53</sup> Finally, we reiterated the requirement that wireless carriers support roaming nationwide for customers with pooled and ported

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<sup>48</sup> See Centurytel Comments on CTIA's January 23<sup>rd</sup> Petition at 4-5.

<sup>49</sup> See, e.g., Letter from Gary Lytle, Qwest to Marlene H. Dortch, Secretary, FCC (filed Oct. 17, 2003) (Qwest Oct. 17<sup>th</sup> *Ex Parte*); and SBC Aug. 29<sup>th</sup> *Ex Parte*.

<sup>50</sup> NECA and NTCA Comments on CTIA's January 23<sup>rd</sup> Petition at 6. 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) (Sprint Petition for Declaratory Ruling).

<sup>51</sup> CTIA Petition for Declaratory Ruling, CC Docket No. 95-116 (filed May 13, 2003) (May 13<sup>th</sup> Petition).

<sup>52</sup> Telephone Number Portability, CC Docket No. 95-116, *Memorandum Opinion and Order*, FCC 03-237, rel. Oct. 7, 2003.

<sup>53</sup> Type 1 numbers reside in an end office of a LEC and are assigned to a Type 1 interconnection group, which connects the wireless carrier's switch and the LEC's end office switch. Type 2 numbers reside in a wireless carrier's switch and are assigned to a Type 2 interconnection group, which connects the wireless carrier's switch and a LEC access tandem switch or end office switch.



numbers, and we addressed outstanding petitions for waiver of the roaming requirement. We indicated our intention to address issues related to intermodal porting in a separate order.<sup>54</sup>

### III. ORDER

#### A. Wireline-to-Wireless Porting

20. *Background.* In its January 23<sup>rd</sup> Petition, CTIA requests that the Commission clarify that the LNP rules require wireline carriers to port numbers to any wireless carrier whose service area overlaps the wireline carrier's rate center that is associated with the ported number.<sup>55</sup> CTIA claims that, absent such a clarification, a majority of wireline customers will not be able to port their phone number to the wireless carrier of their choice because wireless carriers typically have a point of interconnection or numbering resources in only a fraction of the wireline rate centers in their service areas.<sup>56</sup> Citing prior Commission decisions, CTIA notes that the Commission has cited intermodal competition as a basis for imposing LNP requirements on wireless carriers.<sup>57</sup> CTIA argues that the Commission's objectives with respect to intermodal competition cannot be realized without prompt action.

21. *Discussion.* The Act and the Commission's rules impose broad porting obligations on LECs. Section 251(b) of the Act provides that all local exchange carriers "have the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."<sup>58</sup> The Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."<sup>59</sup> In implementing these requirements in the Local Number Portability *First Report and Order*, the Commission determined that LECs were required to provide portability to all other telecommunications carriers, including CMRS service providers, providing local exchange or exchange access service within the same MSA.<sup>60</sup> The Commission's rules reflect these requirements, requiring LECs to offer number portability in switches for which another carrier made a request for number portability and providing that all carriers, including CMRS service providers must be permitted to make requests for number portability.<sup>61</sup>

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<sup>54</sup> Remaining issues from CTIA's January 23<sup>rd</sup> and May 13<sup>th</sup> petitions pertaining to intermodal porting are addressed in this order. Additional issues from CTIA's May 13<sup>th</sup> petition, including the implication of the porting interval for E911, the definition of the 100 largest MSAs, and the bona fide request requirement have been addressed separately. See Letter from John B. Muleta, Chief, Wireless telecommunications Bureau, to John T. Scott, III, Vice President and Deputy General Counsel, Verizon Wireless and Michael F. Altschul, Senior Vice President, General Counsel, CTIA, CC Docket No. 95-116, DA 03-2190, dated July 3, 2003. See also, Numbering Resource Optimization, *Fourth Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket Nos. 99-200 and 95-116 (rel. June 18, 2003).

<sup>55</sup> January 23<sup>rd</sup> Petition at 3.

<sup>56</sup> *Id.* at 18.

<sup>57</sup> *Id.* at 12-16.

<sup>58</sup> 47 U.S.C. § 251(b).

<sup>59</sup> 47 U.S.C. § 153(30).

<sup>60</sup> *First Report and Order* at 8393, 8431, paras. 77 and 152.

<sup>61</sup> 47 C.F.R. § 52.23(b)(1), (b)(2)(i).

22. We conclude that, as of November 24, 2003, LECs 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, provided that the porting-in carrier maintains the number's original rate center designation following the port.<sup>62</sup> Permitting intermodal porting in this manner is consistent with the requirement that carriers support their customers' ability to port numbers while remaining at the same location. For purposes of this discussion, the wireless "coverage area" is the area in which wireless service can be received from the wireless carrier. Permitting wireline-to-wireless porting under these conditions will provide customers the option of porting their wireline number to any wireless carrier that offers service at the same location. We also reaffirm that wireless carriers must port numbers to wireline carriers within the number's originating rate center. With respect to wireless-to-wireline porting, however, because of the limitations on wireline carriers' networks ability to port-in numbers from distant rate centers, we will hold neither the wireline nor the wireless carriers liable for failing to port under these conditions. Rather, we seek comment on this issue in the Further Notice below.

23. We make our determinations based on several factors. First, as stated above, under the Act and the Commission's rules, wireline carriers must port numbers to other telecommunications carriers, to the extent that it is technically feasible to do so, in accordance with regulations prescribed by the Commission.<sup>63</sup> There is no persuasive evidence in the record indicating that there are significant technical difficulties that would prevent a wireline carrier from porting a number to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number. Accordingly, the plain text of the Act and the Commission's rules, requiring LECs to provide number portability applies. In fact, several LECs acknowledge that there is no technical obstacle to porting wireline numbers to wireless carriers whose point of interconnection is outside of the rate center of the ported numbers.<sup>64</sup> Moreover, at least two LECs, Verizon and Sprint, have already established agreements with their wireless affiliates that specifically provide for intermodal porting.<sup>65</sup> In addition, BellSouth indicates in its comments that it has no intention of preventing customers from porting their telephone numbers to wireless carriers upon the customers' requests – regardless of whether or not the

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<sup>62</sup> We anticipate that a minimal amount of identifying information will be transmitted from the wireless carrier to the LEC when a customer seeks to port. For example, carriers may choose to verify the zip code of the porting-out wireline customer in their validation procedures.

<sup>63</sup> 47 U.S.C. § 251(b)(2), 47 C.F.R. § 52.23.

<sup>64</sup> See BellSouth Comments on CTIA's January 23<sup>rd</sup> Petition at 3; and USTA Comments on CTIA's January 23<sup>rd</sup> Petition at 7-8.

Several interexchange carriers (IXCs) have brought to the Commission's attention a problem IXCs face in identifying whether a customer has switched carriers. This problem can result in customers receiving erroneous bills from IXCs after they have switched local or interexchange carriers, and could also be a problem when customers port from a wireline carrier to a wireless carrier. While we do not address this issue in the instant order, we have sought comment on carrier petitions regarding this matter. See Pleading Cycle Established for Comments on Petition for Declaratory Ruling and/or Rulemaking, filed by Americatele Corporation, and for Comments on Joint Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, filed by AT&T Corp., Sprint Corp., and WorldCom, Inc., CG Docket No. 02-386, *Public Notice*, 17 FCC Rcd 25535 (2002).

<sup>65</sup> "Verizon and Verizon Wireless Reach Barrier-Free Porting Agreement in Advance of November 24 Deadline," Press Release from Verizon Wireless dated Sept. 22, 2003, available at <http://news.vzw.com/news/2003/09/pr2003-09-22.html>; and "Sprint Wireless Local Number Portability Plans on Track, on Schedule for November Deadline," Press Release from Sprint dated Oct. 1, 2003, available at [Sprint.com](http://www.sprint.com).

carriers' service areas overlap.<sup>66</sup> Accordingly, BellSouth states, number portability can still occur despite the "rate center disparity" issue. We note that, to the extent that LECs assert an inability to port numbers to wireless carriers under the circumstances described herein, they bear the burden of demonstrating with specific evidence that porting to a wireless carrier without a point of interconnection or numbering resources in the same rate center to which the ported number is assigned is not technically feasible pursuant to our rules.

24. Second, neither the Commission's LNP rules nor any of the LNP orders have required wireless carriers to have points of interconnection or numbering resources in the same rate center as the assigned number for wireline-to-wireless porting. In the Local Number Portability *Second Report and Order*, the Commission adopted NANC recommendations regarding several specific aspects of number portability implementation, including technical and operational standards for the provision of number portability by wireline carriers.<sup>67</sup> In this context, the Commission adopted the NANC recommendations concerning the boundaries applicable to wireline-to-wireline porting. Specifically, the Commission adopted NANC recommendations limiting the scope of ports to wireline carriers based on wireline carriers' inability to receive numbers from foreign rate centers.<sup>68</sup>

25. In this order, we address a different issue, wireline-to-wireless porting. The NANC recommendations that were the subject of the *Second Report and Order* included a boundary for wireline-to-wireline porting, but were silent regarding wireline-to-wireless porting issues. In adopting the NANC recommendations, the Commission specifically recognized that the NANC had not included recommendations regarding wireless carriers' participation in number portability and that modifications to existing standards and procedures would probably need to be made as the industry obtained additional information about incorporating CMRS service providers into a long-term number portability solution and interconnecting CMRS carriers with wireline carriers already implementing number portability.<sup>69</sup> However, while the Commission noted that NANC should consider intermodal porting issues of concern to wireless carriers, it did not impose limits on wireline-to-wireless porting while NANC considered these issues, nor did it give up its inherent authority to interpret the statute and rules with respect to the obligation of wireline carriers to port numbers to wireless carriers. Accordingly, we find that in light of the fact that the Commission has never adopted any limits regarding wireline-to-wireless number portability, as of November 24, 2003, LECs must port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned.<sup>70</sup>

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<sup>66</sup> See BellSouth Comments on CTIA's January 23<sup>rd</sup> Petition at 3. In recent ex parte filings, BellSouth argues that the Commission cannot proceed to require intermodal porting until it addresses the issues arising from the differences in network architecture, operational support systems, and regulatory requirements that distinguish wireline carriers from wireless carriers. See, e.g., BellSouth Sept. 9<sup>th</sup> *Ex Parte*.

<sup>67</sup> See *Second Report and Order*. Subsequent NANC reports address technical issues associated with wireless-to-wireline porting. In the Further Notice, we seek comment on these technical feasibility issues.

<sup>68</sup> North American Numbering Council Local Number Portability Selection Working Group Final Report and Recommendation to the FCC, Appendix D at 6 (rel. April 25, 1997). This report is available at [www.fcc.gov/wcb/tapd/nanc/lnpastuf.html](http://www.fcc.gov/wcb/tapd/nanc/lnpastuf.html).

<sup>69</sup> *Second Report and Order* 12 FCC Rcd at 12333-34.

<sup>70</sup> Similarly, wireless-to-wireline porting is required, as of November 24, 2003, where the requesting carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned

26. We reject the argument advanced by certain wireline carriers,<sup>71</sup> that requiring LECs to port to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number would constitute a new obligation imposed without proper notice. In fact, the requirement that LECs port numbers to wireless carriers is not a new rule. Citing the D.C. Circuit's decision in the *Sprint* case specifying the distinction between clarifications of existing rules and new rulemakings subject to APA procedures, Qwest, for example, argues that the permitting wireline-to-wireless porting in the manner outlined above would change LECs' existing porting obligations.<sup>72</sup> As described earlier, however, section 251(b) of the Act and the Commission's Local Number Portability *First Report and Order* impose broad porting obligations on wireline carriers. Specifically, these authorities require wireline carriers to provide portability to all other telecommunications carriers, including wireless service providers. While the Commission decision in the Local Number Portability *Second Report and Order* limited the scope of wireline carriers' porting obligation with respect to the boundary for wireline-to-wireline porting, the Commission, as noted above, has never established limits with respect to wireline carriers' obligation to port to wireless carriers. The clarifications we make in this order interpret wireline carriers' existing obligation to port numbers to wireless carriers. Therefore, these clarifications comply with the requirements of the Administrative Procedure Act as well as the D.C. Circuit's decision in the *Sprint* case.

27. We also reject the argument made by some LECs that the scope of wireline-to-wireless porting should be limited because wireline carriers may not be able to offer portability to certain wireless subscribers.<sup>73</sup> As discussed above, under the Act and the Commission's rules, wireline carriers must port numbers to other telecommunications carriers, to the extent technically feasible. The fact that there may be technical obstacles that could prevent some other types of porting does not justify denying wireline consumers the benefit of being able to port their wireline numbers to wireless carriers. Each type of service offers its own advantages and disadvantages (e.g., wireless service offers mobility and larger calling areas, but also the potential for dropped calls) and wireline customers will consider these attributes in determining whether or not to port their number. In our view, it would not be appropriate to prevent wireline customers from taking advantage of the mobility or the larger local calling areas associated with wireless service simply because wireline carriers cannot currently accommodate all potential requests from customers with wireless service to port their numbers to a wireline service provider. Evidence from the record shows that limiting wireline-to-wireless porting to rate centers where a wireless carrier has a point of interconnection or numbering resources would deprive the majority of wireline consumers of the ability to port their number to a wireless carrier.<sup>74</sup> With such limited intermodal porting, the competitive benefits we seek to promote through the porting requirements may not be fully achieved. The focus of the porting rules is on promoting competition, rather than protecting individual competitors. To the extent that wireline carriers may have fewer opportunities to win customers through porting, this disparity results from the wireline network architecture and state regulatory requirements, rather than Commission rules.

28. We conclude that porting from a wireline to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center as the ported number does not, in and of itself, constitute location portability, because the rating of calls to the ported number stays the same. As stated above, a wireless carrier porting-in a wireline number is required to maintain the number's original rate center designation following the port. As a result, calls to the ported number will continue to be rated

<sup>71</sup> See, e.g., Letter from Gary Lytle, Qwest to Marlene H. Dortch, Secretary, FCC (filed Oct. 17, 2003) (Qwest Oct. 17<sup>th</sup> *Ex Parte*); and SBC Aug. 29 *Ex Parte*.

<sup>72</sup> Qwest Oct. 17<sup>th</sup> *Ex Parte* at 11. See *Sprint Corp. v. FCC*, 315 F. 3d 369 (D.C. Cir. 2003).

<sup>73</sup> See, e.g., SBC Aug. 29<sup>th</sup> *Ex Parte* and BellSouth Sept. 9<sup>th</sup> *Ex Parte*.

<sup>74</sup> January 23<sup>rd</sup> Petition at 6.

in the same fashion as they were prior to the port. As to the routing of calls to ported numbers, it should be no different than if the wireless carrier had assigned the customer a new number rated to that rate center.<sup>75</sup>

29. Some wireline carriers contend that they lack the technical capability to support wireline-to-wireless porting in the manner outlined above, and that they need time to make technical modifications to their systems. We emphasize that our holding in this order requires wireline carriers to support wireline-to-wireless porting in accordance with this order by November 24, 2003, unless they can provide specific evidence demonstrating that doing so is not technically feasible pursuant to our rules.<sup>76</sup> We expect carriers that need to make technical modifications to do so forthwith, as the record indicates that major system modifications are not required and that several wireline carriers have already announced their technical readiness to port numbers to wireless carriers without regard to rate centers.<sup>77</sup> We recognize, however, that many wireline carriers outside the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability. In addition we note that wireless carriers outside the top 100 MSAs are not required to provide LNP prior to May 24, 2004, and accordingly are unlikely to seek to port numbers from wireline carriers prior to that date. Therefore for wireline carriers operating in areas outside of the 100 largest MSAs, we hereby waive, until May 24, 2004, 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 customer's wireline number is provisioned. We find that this transition period will help ensure a smooth transition for carriers operating outside of the 100 largest MSAs and provide them with sufficient time to make necessary modifications to their systems.

30. Carriers inside the 100 largest MSAs (or outside the 100 largest MSAs, after the transition period) may file petitions for waiver of their obligation to port numbers to wireless carriers, if they can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules.<sup>78</sup> We note that several wireline carriers have already filed requests for waiver.<sup>79</sup> We will

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<sup>75</sup> As noted in paras. 39-40 below, there is a dispute as to which carrier is responsible for transport costs when the routing point for the wireless carrier's switch is located outside the wireline local calling area in which the number is rated. See *Sprint Petition for Declaratory Ruling*. The existence of this dispute over transport costs does not, however, provide a reason to delay or limit the availability of porting from wireline to wireless carriers.

We recognize that the Act limits wireline carriers' ability to route calls outside of Local Access Transport Area (LATA) boundaries. See 47 U.S.C. § 272. See also, Application by SBC Communications, Inc., Southwestern Bell Telephone, and Southwestern Bell Communications, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, *Memorandum Opinion and Order*, 15 FCC Rcd 18354 (2000). Accordingly, we clarify that our ruling is limited to porting within the LATA where the wireless carrier's point of interconnection is located, and does not require or contemplate porting outside of LATA boundaries.

<sup>76</sup> 47 U.S.C. § 251(b). We anticipate that, as a general matter, enforcement issues regarding both wireless-wireless and wireless-wireline local number portability at this time are likely to be better addressed in the context of Section 208 formal compliant proceedings or related mediations as opposed to FCC-initiated forfeiture proceedings. In this connection, we note that a violation of our number portability rules would constitute an unjust and unreasonable practice under section 201(b) of the Act.

<sup>77</sup> We note that Verizon has already announced its intention to port numbers without regard to rate centers. See "Verizon and Verizon Wireless Reach Barrier-Free Porting Agreement in Advance of November 24 Deadline," Press Release from Verizon Wireless dated Sept. 22, 2003, available at <http://news.vzw.com/news/2003/09/pr2003-09-22.html>.

<sup>78</sup> 47 C.F.R. § 1.3, 52.25(e). See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

consider these requests separately, and our decision in this order is without prejudice to any potential disposition of these requests.

## B. Interconnection Agreements

31. *Background.* In its January 23<sup>rd</sup> petition, CTIA requests that the Commission confirm that a wireline carrier's obligation to port numbers to a wireless carrier requires only that a carrier release a customer's number to another carrier and assign the number to the new carrier in the Number Portability Administration Center (NPAC) database, which is queried solely to identify the carrier that can terminate calls to the customer. From a practical perspective, CTIA contends, such porting can be based on a service-level porting agreement between carriers, and does not require direct interconnection or an interconnection agreement. Moreover, CTIA argues, because the Commission imposed number portability requirements on wireless carriers pursuant to its authority under sections 1, 2, 4(i), and 332 of the Act, and outside the scope of sections 251 and 252, number portability between wireline and wireless carriers is governed by a different regime than number portability between wireline carriers and is subject to the Commission's unique jurisdiction over wireless carriers.<sup>80</sup>

32. A number of wireless carriers agree with CTIA, arguing that requiring wireless carriers to establish interconnection agreements with wireline carriers from whom they sought to port numbers would delay LNP implementation.<sup>81</sup> Several wireline carriers, however, assert that interconnection agreements for porting are necessary.<sup>82</sup> SBC, for example, argues that under sections 251 and 252 of the Act, LECs must establish interconnection agreements for porting.<sup>83</sup> SBC contends that interconnection agreements guarantee parties their right to negotiate, provide a means of resolving disputes, and allow public scrutiny of agreements.<sup>84</sup> In addition, some LECs argue that, without interconnection agreements, they have no means to ensure that they will receive adequate compensation for transporting and terminating traffic to wireless carriers.

33. Other LECs, on the other hand, disagree that interconnection agreements are a necessary precondition to intermodal porting. Verizon contends that intermodal porting is not a Section 251 requirement and is therefore not necessary to incorporate wireless-wireline porting into Section 251 agreements.<sup>85</sup> AT&T questions whether either service level agreements or interconnection agreements are necessary, contending that because such little information needs to be exchanged between carriers for porting, less formal arrangements may be sufficient.<sup>86</sup> Sprint argues that interconnection agreements are

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<sup>79</sup> See e.g., Franklin Telephone Company, Inc. Petition for Waiver, CC Docket Nos. 95-116 (filed Sept. 24, 2003); Intercommunity Telephone Company, LLC Petition for Waiver, CC Docket No. 95-116 (filed Sept. 24, 2003); and North Central Telephone Cooperative, Inc. Petition for Waiver, CC Docket No. 95-116 (filed Sept. 24, 2003).

<sup>80</sup> May 13<sup>th</sup> Petition at 17-18.

<sup>81</sup> See Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 16; T-Mobile Comments on CTIA's May 13<sup>th</sup> Petition at 8; and Virgin Mobile Comments on CTIA's May 13<sup>th</sup> Petition at 4-5.

<sup>82</sup> See Missouri Independent Telephone Company Group Comments on CTIA's May 13<sup>th</sup> Petition; National Telecommunications Cooperative Association Comments on CTIA's May 13<sup>th</sup> Petition; and SBC Comments on CTIA's May 13<sup>th</sup> Petition.

<sup>83</sup> SBC Comments on CTIA's May 13<sup>th</sup> Petition at 8.

<sup>84</sup> *Id.*

<sup>85</sup> Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 18; Verizon Comments on CTIA's May 13<sup>th</sup> Petition at 10.

<sup>86</sup> AT&T Reply Comments on CTIA's May 13<sup>th</sup> Petition at 7-8.

not required for LNP because whether or not a customer ports a number from one carrier to another has nothing to do with the interconnection arrangements two carriers use for the exchange of traffic.<sup>87</sup> Several LECs urge the Commission to let carriers determine on their own what type of agreement to use to facilitate porting.<sup>88</sup>

34. *Discussion.* We find that wireless carriers need not enter into section 251 interconnection agreements with wireline carriers solely for the purpose of porting numbers. We note that the intermodal porting obligation is also based on the Commission's authority under sections 1, 2, 4(i) and 332 of the Act. Sprint argues that interconnection agreements are not required to implement every section 251 obligation.<sup>89</sup> Sprint also claims that because porting involves a limited exchange of data (e.g., carriers need only share basic contact and technical information sufficient to allow porting functionality and customer verification to be established), interconnection agreements should not be required here.<sup>90</sup> We agree with Sprint that wireline carriers should be required to port numbers to wireless carriers without necessarily entering into an interconnection agreement because this obligation can be discharged with a minimal exchange of information. We thus find that wireline carriers may not unilaterally require interconnection agreements prior to intermodal porting. Moreover, to avoid any confusion about the applicability of section 252 to any arrangement between wireline and wireless carriers solely for the purpose of porting numbers, we forbear from these requirements as set forth below.

35. To the extent that the *Qwest Declaratory Ruling Order* could be interpreted to require any agreement pertaining solely to wireline-to-wireless porting to be filed as an interconnection agreement with a state commission pursuant to sections 251 and 252 of the Act, we forbear from those requirements. First, we conclude that interconnection agreements are not necessary to prevent unjust or unreasonable charges or practices by wireless carriers with respect to porting. The wireless industry is characterized by a high level of competition between carriers. Although states do not regulate the prices that wireless carriers charge, the prices for wireless service have declined steadily over the last several years.<sup>91</sup> No evidence suggests that requiring interconnection agreements for intermodal porting is necessary for this trend to continue.

36. For similar reasons, we find that interconnection agreements for intermodal porting are not necessary for the protection of consumers.<sup>92</sup> The intermodal LNP requirement is intended to benefit

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<sup>87</sup> Letter from Luisa L. Lancetti, Vice President, PCS Regulatory Affairs, Sprint to John Rogovin, General Counsel, FCC (filed Sept. 22, 2003).

<sup>88</sup> See Association for Local Telecommunications Services Reply Comments on CTIA's May 13<sup>th</sup> Petition at 3, BellSouth Comments on CTIA's May 13<sup>th</sup> Petition at 9; and USTA Reply Comments on CTIA's May 13<sup>th</sup> Petition at 6.

<sup>89</sup> See note 87.

<sup>90</sup> Sprint's profile information exchange process is an example of the type of contact and technical information that would trigger an obligation to port. See, Letter from Luisa L. Lancetti, Vice President PCS Regulatory Affairs, Sprint Corp. to John B. Muleta, Chief, Wireless Telecommunications Bureau (filed Sept. 23, 2003); and Letter from Luisa L. Lancetti, Vice President, PCS Regulatory Affairs, Sprint Corp. to John B. Muleta, Chief, Wireless Telecommunications Bureau and William Maher, Chief, Wireline Competition Bureau (filed August 8, 2003).

<sup>91</sup> Implementation of Section 6002(b) of the Omnibus Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Eighth Report*, FCC 03-150, at 45 (rel. July 14, 2003).

<sup>92</sup> Certain LECs have expressed concern that without interconnection agreements between LECs and CMRS carriers, calls to ported numbers may be dropped, because NPAC queries may not be performed for customers who have ported their numbers from a LEC to a CMRS carrier. See Letter from Mary J. Sisak, Counsel for Centurytel, Inc. to Marlene H. Dortch, Secretary, FCC (filed Oct. 23, 2003). We do not find these concerns to be justified,

consumers by promoting competition between the wireless and wireline industries and creating incentives for carriers to provide new service offerings, reduced prices, and higher quality services. Requiring interconnection agreements for the purpose of intermodal porting could undermine the benefits of LNP to consumers by preventing or delaying implementation of intermodal porting. We also do not believe that the state regulatory oversight mechanism provided by Section 251 is necessary to protect consumers in this limited instance.

37. Finally, we conclude that forbearance is consistent with the public interest. Number portability, by itself, does not create new obligations with regard to exchange of traffic between the carriers involved in the port. Instead, porting involves a limited exchange of data between carriers to carry out the port. Sprint, for example, notes that to accomplish porting, carriers need only exchange basic contact information and connectivity details, after which the port can be rapidly accomplished.<sup>93</sup> Given the limited data exchange and the short time period required to port, we conclude that interconnection agreements approved under section 251 are unnecessary. In view of these factors, we conclude that it is appropriate to forbear from requiring interconnection agreements for intermodal porting.

### C. The Porting Interval

38. CTIA requests that the Commission require wireline carriers to reduce the length of the porting interval, or the amount of time it takes two carriers to complete the process of porting a number, for ports from wireline to wireless carriers.<sup>94</sup> Currently, the wireline-to-wireline porting interval is four business days.<sup>95</sup> The wireline porting interval was adopted by the NANC in its Architecture and Administrative Plan for Local Number Portability, which was approved by the Commission.<sup>96</sup> Upon subsequent review of the porting interval, the NANC agreed that the four business day porting interval for wireline-to-wireline porting should not be reduced; it did not specify a porting interval for intermodal porting.<sup>97</sup> The current porting interval for wireless-to-wireless ports is two and one half hours.<sup>98</sup> We decline to require wireline carriers to follow a shorter porting interval for intermodal ports at this time. Instead, we will seek comment on this issue in the Further Notice. We note that, while we seek comment on whether to reduce the length of the wireline porting interval, the current four business day porting

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however, because the Commission's rules require carriers to correctly route calls to ported numbers. See Telephone Number Portability, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7307-08, paras. 125-126.

<sup>93</sup> Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 13-14.

<sup>94</sup> May 13<sup>th</sup> Petition at 7.

<sup>95</sup> Wireline carriers are required to complete the LSR/FOC exchange within 24 hours and complete the port within three business days thereafter. See North American Numbering Council Local Number Portability Selection Working Group Final Report and Recommendation to the FCC, Appendix E (rel. April 25, 1997).

<sup>96</sup> *Second Report and Order*, 12 FCC Rcd 12281 (1997).

<sup>97</sup> Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau, (filed Nov. 29, 2000).

<sup>98</sup> See North American Numbering Council Local Number Portability Administration Working Group Report on Wireless Wireline Integration, May 8, 1998, CC Docket No. 95-116 (filed May 18, 1998) (First Report on Wireless Wireline Integration); North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability Technical, Operational, and Implementation Requirements Phase II, CC Docket No. 95-116 (filed Sept. 26, 2000); ATIS Operations and Billing Forum, Wireless Inter-carrier Communications: Interface Specification for Local Number Portability, Version 2, at § 2 p. 6 (Jan. 2003).



interval represents the outer limit of what we would consider to be a reasonable amount of time in which wireline carriers may complete ports. We note also that whatever porting interval affiliated wireline and wireless service providers offer within their corporate family must also be made available to unaffiliated service providers.<sup>99</sup>

#### D. Impact of Designating Different Routing and Rating Points on LNP

39. CTIA asks the Commission to resolve the intercarrier dispute between BellSouth and Sprint as it affects the rating and routing of calls to ported numbers.<sup>100</sup> CTIA contends that, although the dispute largely concerns matters of intercarrier compensation, to the extent LECs argue that they need not differentiate between rating and routing points for local calls, intermodal porting may not be available to consumers.<sup>101</sup> To ensure that permitting porting beyond wireline rate center boundaries does not cause customer confusion with respect to charges for calls, we clarify that ported numbers must remain rated to their original rate center. We note, however, that the routing will change when a number is ported. Indeed, several wireline carriers have expressed concern about the transport costs associated with routing calls to ported numbers. The National Exchange Carrier Association (NECA) and National Telecommunications Cooperative Association (NTCA), for example, argue in their joint comments, that when wireless carriers establish a point of interconnection outside of a rural LEC's serving area, a disproportionate burden is placed on rural LECs to transport originating calls to the interconnection points.<sup>102</sup> They argue that requiring wireline carriers to port telephone numbers to out-of-service area points of interconnection could create an even bigger burden. Other carriers point out, however, that issues associated with the rating and routing of calls to ported numbers are the same as issues associated with rating and routing of calls to all wireless numbers.<sup>103</sup>

40. We recognize the concerns of these carriers, but find that they are outside the scope of this order. As noted above, our declaratory ruling with respect to wireline-to-wireless porting is limited to ported numbers that remain rated in their original rate centers. We make no determination, however, with respect to the routing of ported numbers, because the requirements of our LNP rules do not vary depending on how calls to the number will be routed after the port occurs. Moreover, as CTIA notes, the rating and routing issues raised by the rural wireline carriers have been raised in the context of non-ported numbers and are before the Commission in other proceedings.<sup>104</sup> Therefore, without prejudging the outcome of any other proceeding, we decline to address these issues at this time as they relate to intermodal LNP.

### IV. FURTHER NOTICE OF PROPOSED RULEMAKING

#### A. Wireless-to-Wireline Porting

41. *Background.* As noted above, some LECs argue that allowing wireless carriers to port numbers wherever their coverage area overlaps the rate center in which the number is assigned would

<sup>99</sup> 47 U.S.C. §§ 201(b) and 202(a).

<sup>100</sup> May 13<sup>th</sup> Petition at 25-26.

<sup>101</sup> *Id.*

<sup>102</sup> NECA and NTCA Comments on CTIA's January 23<sup>rd</sup> Petition at 6.

<sup>103</sup> BellSouth Comments on CTIA's May 13<sup>th</sup> Petition at 11-12.

<sup>104</sup> See, e.g. 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).

give wireless service providers an unfair competitive advantage over wireline carriers.<sup>105</sup> They contend that while this may facilitate widespread wireline-to-wireless porting, wireless-to-wireline porting can only occur in cases where the wireless customer is physically located in the wireline rate center associated with the phone number.<sup>106</sup> If the customer's physical location is outside the rate center associated with the number, porting the number to a wireline telephone at the customer's location could result in calls to and from that number being rated as toll calls. As a result, the LECs assert, they are effectively precluded from offering wireless-to-wireline porting to those wireless subscribers who are not located in the wireline rate center associated with their wireless numbers.<sup>107</sup> Furthermore, the LECs contend that for them to offer wireless-to-wireline porting in this context would require significant and costly operational changes.<sup>108</sup> Qwest, for example, argues that if the Commission were to make the Local Access Transport Area (LATA) or Numbering Plan Area (NPA) the relevant geographic area for porting, LECs would be required to upgrade switches, increase trunking, and rework billing and provisioning systems.<sup>109</sup>

42. *Discussion.* We seek comment on how to facilitate wireless-to-wireline porting where there is a mismatch between the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer. Some wireline commenters contend that requiring porting between wireline and wireless carriers where the wireless carrier does not have a point of interconnection or numbering resources in the rate center creates a competitive disparity because wireline carriers would not have the same flexibility to offer porting to wireless customers whose numbers are not associated with the wireline rate center. We seek comment on the technical impediments associated with requiring wireless-to-wireline LNP when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. We seek comment on whether technical impediments exist to such an extent as to make wireless-to-wireline porting under such circumstances technically infeasible. Commenters that contend there are technical implications should specifically describe them, including any upgrades to switches, network facilities, or operational support systems that would be necessary. Commenters should also provide detailed information on the magnitude of the cost of such upgrades along with documentation of the estimated costs. We also seek comment on whether the benefits associated with offering wireless-to-wireline porting would outweigh the costs associated with making any necessary upgrades. We seek comment on the expected demand for wireless-to-wireline porting. We note that wireline customers who decide to port their numbers to wireless carriers are able to port their numbers back to wireline carriers if they choose, because the numbers remain associated with their original rate centers.

43. In addition to technical factors, we seek comment on whether there are 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. Commenters that suggest such obstacles exist and result in a competitive disadvantage should submit proposals to address these impediments, as well as consider the collateral effect on other regulatory objectives as a result of these proposals. We note that wireline carriers are not able to port a number to another wireline carrier if the rate center associated with the number does not match the rate center associated with the customer's

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<sup>105</sup> See, e.g., Centurytel Comments on CTIA's January 23<sup>rd</sup> Petition at 5-6; Fred Williams & Associates Comments on CTIA's January 23<sup>rd</sup> Petition at 8; and SBC Comments on CTIA's January 23<sup>rd</sup> Petition at 1.

<sup>106</sup> See, e.g., Qwest Oct. 9<sup>th</sup> *Ex Parte*; and Letter from Herschel L. Abbott, Jr., Vice President-Government Affairs, BellSouth to Michael K. Powell, Chairman, FCC (filed Oct. 14, 2003).

<sup>107</sup> *Id.*

<sup>108</sup> See Letter from Cronan O'Connell, Vice President-Federal Regulatory, Qwest to Marlene H. Dortch, Secretary, FCC (filed July 24, 2003) at 4-5 (Qwest July 24<sup>th</sup> *Ex Parte*); and SBC Aug. 29<sup>th</sup> *Ex Parte*.

<sup>109</sup> See Qwest July 24<sup>th</sup> *Ex Parte* at 4-5.

physical location. We seek comment on whether wireless and wireline numbers should be treated differently in this regard. We also seek comment on whether there are any potential adverse impacts to consumers resulting from wireless-to-wireline porting where the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer.

44. In addition, we seek comment on whether there are other competitive issues that could affect our LNP requirements. For example, to the extent that wireless-to-wireline porting may raise issues regarding the rating of calls to and from the ported number when the rate center of the ported number and the physical location of the customer do not match, we seek comment on the extent to which wireline carriers should absorb the cost of allowing the customer with a number ported from a wireless carrier to maintain the same local calling area that the customer had with the wireless service provider. Alternatively, we seek comment on the extent to which wireline carriers can serve customers with numbers ported from wireless carriers on a Foreign Exchange (FX) or virtual FX basis.<sup>110</sup> A third option is for wireline carriers to seek rate design and rate center changes at the state level to establish larger wireline local calling areas. We seek comment on the procedural, technical, financial, and regulatory implications of each of these approaches. We also seek comment on the viability of each of these approaches and whether there are any alternative approaches to consider.

## **B. Porting Interval**

45. *Background.* Over the past several years, the NANC has studied the wireline porting interval and reviewed options for reducing the length of the interval for simple ports.<sup>111</sup> In the Third Report on Wireless/Wireline Integration, the Local Number Portability Administration Working Group analyzed the elements of the wireline porting interval and investigated how reducing the length of the interval for simple ports would affect carriers' operations.<sup>112</sup> The report noted that reducing the porting interval would require wireline carriers to make significant changes to their operations. First, reducing the porting interval would require wireline carriers to automate and make uniform the Local Service Request (LSR)/Local Service Request Confirmation (LSC) Firm Order Confirmation (FOC) process.<sup>113</sup> In addition, the report indicated that wireline carriers would likely have to eliminate or adjust their batch processing operations. The report noted that a change from batch processing to real time data processing would require in-depth system analysis of all business processes that use batch processing systems.<sup>114</sup> Based on its analysis of these and other challenges, the working group concluded that because most wireline carriers already found their processes and systems challenged to meet the current porting interval it was not feasible to reduce the length of the wireline porting interval for simple ports.<sup>115</sup>

46. Because of the number and complexity of changes that would be required in the porting process for wireline carriers, the NANC was not able to reach consensus on reducing the porting interval

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<sup>110</sup> T-Mobile Comments on CTIA's January 23<sup>rd</sup> Petition at 11.

<sup>111</sup> See Second Report on Wireless Wireline Integration; Third Report on Wireless Wireline Integration.

<sup>112</sup> See Third Report on Wireless Wireline Integration. Simple ports are defined as those ports that: do not involve unbundled network elements, involve an account for a single line (porting a single line from a multi-line account is not a simple port), do not include complex switch translations (e.g., Centrex or Plexar, ISDN, AIN services, remote call forwarding, multiple services on the loop), may include CLASS features such as Caller ID, and do not include a reseller. All other ports are considered "complex" ports. *Id.* at 6.

<sup>113</sup> *Id.* at 13.

<sup>114</sup> *Id.* at 13-14.

<sup>115</sup> *Id.* at 14.

to accommodate intermodal porting.<sup>116</sup> The wireless industry expressed concern that the wireline four business day porting interval does not fit within its business model.<sup>117</sup> In order to accommodate the wireless business model, the NANC attempted to shorten the porting interval for wireline-to-wireless ports by developing a process that will allow the wireless carrier to activate the port before the wireline carrier activates the disconnect in the Number Portability Administration Center (NPAC). This process results in a situation referred to as a "mixed service" condition, whereby the customer can make calls on both the wireline and wireless phones before the port is completed. The NANC reported that this mixed service condition can result in misdirected callbacks in an emergency situation.<sup>118</sup> That is, for example, if the emergency operator attempts to callback a person that made a call from the wireless phone, the call may be routed to the wireline phone. The NANC consulted with the National Emergency Number Association and concluded that, while the mixed service condition is not desirable, the incidence of such is low and would not impede intermodal porting.<sup>119</sup>

47. LECs contend that their current porting interval cannot be reduced readily for intermodal porting, because it is necessary to support the complex systems and procedures of wireline carriers.<sup>120</sup> SBC, for example, explains that the current porting interval not only ensures that the porting out carrier correctly ports a number to the porting in carrier, but also that these carriers accurately update other systems, including E911, billing, and maintenance.<sup>121</sup> Qwest notes that wireline carriers have longer porting intervals due to differences in network and system configurations.<sup>122</sup> Qwest indicates that wireline carriers are often constrained by the provisioning of physical facilities (e.g., loops) to serve customers.<sup>123</sup> Moreover, LECs contend, reducing the length of the current wireline porting interval would require them to make changes to many of their systems and would involve significant expense.<sup>124</sup>

48. Wireless carriers argue that a reduced intermodal porting interval would encourage more consumers to use porting by eliminating confusion about the porting process.<sup>125</sup> They argue that a reduced porting interval is technically achievable and that wireline carriers should be required to make the

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<sup>116</sup> Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau (filed Nov. 29, 2000).

<sup>117</sup> Wireline carriers are required to complete the LSR/FOC exchange within 24 hours and complete the port within three business days thereafter. See North American Numbering Council Local Number Portability Selection Working Group Final Report and Recommendation to the FCC, Appendix E (rel. April 25, 1997). See also Letter from John R. Hoffman, NANC Chair to Dorothy Attwood, Chief, Common Carrier Bureau (filed Nov. 29, 2000).

<sup>118</sup> See Second Report on Wireless Wireline Integration.

<sup>119</sup> See Letter from John R. Hoffman, Chair, NANC to Dorothy Attwood, Chief, Common Carrier Bureau, FCC, dated Nov. 29, 2000.

<sup>120</sup> See letter from Kathleen Levitz, Vice President-Federal Regulatory, BellSouth to Marlene H. Dortch, Secretary, FCC, dated Oct. 15, 2003.

<sup>121</sup> SBC Aug. 29<sup>th</sup> *Ex Parte*.

<sup>122</sup> Qwest Comments on CTIA's May 13<sup>th</sup> Petition at 7.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at 5.

<sup>125</sup> See, e.g., AT&T Wireless Comments on CTIA's May 13<sup>th</sup> Petition at 3-6; Sprint Comments on CTIA's May 13<sup>th</sup> Petition at 6-12; and T-Mobile Comments on CTIA's May 13<sup>th</sup> Petition at 7-9.

necessary changes to their systems. At least one wireless carrier recognizes, however, that significant changes to LEC systems may be required to achieve reduced porting intervals.<sup>126</sup>

49. *Discussion.* Reducing the porting interval could benefit consumers by making it quicker for consumers to port their numbers. To that end, wireless carriers intend to complete intramodal wireless ports within two and one-half hours.<sup>127</sup> There, however, may be technical or practical impediments to requiring wireline carriers to achieve shorter porting intervals for intermodal porting. We seek comment on whether we should reduce the current wireline four business day porting interval for intermodal porting. If so, what porting interval should we adopt? Commenters proposing a shorter porting interval should specify what adjustments should be made to the LNP process flows developed by the NANC.<sup>128</sup> For example, the wireline NANC LNP Process Flows establish that the FOC must be finalized within 24 hours of receiving the port request.<sup>129</sup> Specific time periods are also established for other steps within the porting process that may require adjustment in the event that a shorter porting interval is adopted.

50. We also seek comment on whether adjustments to the NPAC processes, including interfaces and porting triggers, would be required.<sup>130</sup> In addition, we seek comment on the risks, if any, associated with reducing the porting interval for intermodal porting. We seek comment on an appropriate transition period in the event a shorter porting interval is adopted, during which time carriers can modify and test their systems and procedures.

51. We seek input from the NANC on reducing the interval for intermodal porting. The NANC recommendation should include corresponding updates to the NANC LNP process flows and any recommendations on an appropriate transition period. The NANC should provide its recommendations promptly as we intend to review the record and address this issue expeditiously.

## V. PROCEDURAL MATTERS

### A. Initial Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities of the proposals suggested in the *Further Notice*. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to the *Further Notice*, and must have a separate and distinct heading designating them as responses to the IRFA.

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<sup>126</sup> See Sprint Comments on CTIA's May 13<sup>th</sup> Petition.

<sup>127</sup> See First Report on Wireless Wireline Integration; North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability Technical, Operational, and Implementation Requirements Phase II, CC Docket No. 95-116 (filed Sept. 26, 2000); and ATIS Operations and Billing Forum, Wireless Intercarrier Communications: Interface Specification for Local Number Portability, Version 2, at § 2 p. 6 (Jan. 2003).

<sup>128</sup> See Local Number Portability Selection Working Group Final Report and Recommendation to the FCC (rel. April 25, 1997).

<sup>129</sup> FOC, or Firm Order Confirmation refers to the response the old service provider sends to the new service provider upon receiving the new service provider's request to port a number, setting a due time and date for the port. See Local Number Portability Selection Working Group Final Report and Recommendation to the FCC (rel. April 25, 1997).

<sup>130</sup> The NPAC, administered by NeuStar, operates and maintains the centralized databases associated with LNP. Interaction with the NPAC is required for all porting transactions.

## B. Paperwork Reduction Analysis

53. This *Further Notice* contains no new or revised information collections.

## C. Ex Parte Presentations

54. This is a permit-but-disclose notice and comment rule making proceeding. Members of the public are advised that ex parte presentations are permitted, provided they are disclosed under the Commission's Rules.<sup>131</sup>

## D. Comment Dates

55. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before twenty (20) days from the date of publication of this *Further Notice* in the Federal Register and reply comments thirty (30) days from the date of publication of this *Further Notice* in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

56. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rule making number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an E-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should including the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

57. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rule making number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room TW-A306, 445 12th Street, S.W., Washington, D.C. 20554.

58. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered diskette filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be

<sup>131</sup> See generally 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to: 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, the docket number of this proceeding, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554.

59. Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202)418-7426, TTY (202) 418-7365, or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This Further Notice can be downloaded in ASCII Text format at: <http://www.fcc.gov/wtb>.

#### **E. Further Information**

60. For further information concerning this Further Notice of Proposed Rulemaking, contact: Jennifer Salhus, Attorney Advisor, Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310 (voice) or (202) 418-1169 (TTY) or Pam Slipakoff, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-1500 (voice) or (202) 418-0484 (TTY).

#### **VI. ORDERING CLAUSES**

61. Accordingly, IT IS ORDERED THAT, pursuant to sections 4(i) and 10 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i) and 160, the Petitions for Declaratory Ruling filed by CTIA on January 23, 2003, and May 13, 2003, are GRANTED to the extent stated herein.

62. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****List of Parties****A. January 23<sup>rd</sup> Petition****Comments**

ALLTEL  
AT&T  
AT&T Wireless  
BellSouth  
California Public Utilities Commission (CA PUC)  
CenturyTel, Inc.  
Fred Williamson & Associates  
Illinois Citizens Utility Board  
Independent Alliance  
Michigan Exchange Carriers Association  
Midwest Wireless  
National Exchange Carrier Association and National Telephone Cooperative Association (NECA & NTCA)  
Nebraska Rural Independent Companies  
New York State Department of Public Service (NY DPS)  
Nextel  
Ohio Public Utilities Commission (Ohio PUC)  
Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)  
Rural Telecommunications Group (RTG)  
SBC  
TCA, Inc  
Texas 911 Agencies  
T-Mobile  
United States Telecom Association (USTA)  
United States Cellular (US Cellular)  
WorldCom

**Reply Comments**

AT&T  
AT&T Wireless  
BellSouth  
CA PUC  
Cingular Wireless  
CTIA  
Fred Williamson & Associates  
McLeod USA Telecommunications Services  
Mid-Missouri Cellular  
Bernie Moskal  
South Dakota Telecommunications Association  
Sprint  
T-Mobile  
USTA



Valor Telecommunications Enterprises  
Virgin Mobile

**B. May 13<sup>th</sup> Petition**

**Comments**

ALLTEL  
AT&T  
AT&T Wireless  
BellSouth  
CA PUC  
Cincinnati Bell Wireless  
Cingular Wireless  
City of New York  
First Cellular of Southern Illinois  
Illinois Citizens Utility Board  
Independent Alliance  
Missouri Independent Telephone Group  
Nebraska Public Service Commission  
NENA  
Nextel  
Ohio PUC  
OPASTCO  
Qwest  
Rural Cellular Association  
Rural Iowa Independent Telephone Association  
RTG  
SBC  
Sprint  
T-Mobile  
Triton PCS  
USTA  
Verizon  
Verizon Wireless  
Virgin Mobile  
Western Wireless  
Wireless Consumers Alliance

**Reply Comments**

ALLTEL  
ALTS  
AT&T  
AT&T Wireless  
Cellular Mobile Systems of St. Cloud, LLC  
Cingular Wireless  
CTIA  
ENMR-Plateau  
Illinois Citizens Utility Board

Missouri Independent Telephone Group  
NTCA  
NTELOS Inc.  
T-Mobile  
South Dakota Telecommunications Association  
Sprint  
US Cellular  
USTA  
Verizon  
Verizon Wireless  
XIT Cellular

## APPENDIX B

**Initial Regulatory Flexibility Analysis  
Further Notice of Proposed Rulemaking  
CC Docket No. 95-116**

1. As required by the Regulatory Flexibility Act, as amended (RFA),<sup>132</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (Further Notice), CC Docket No. 95-116. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. § 603(a). In addition, the Further Notice and IRFA (or summaries thereof) will be published in the *Federal Register*.<sup>133</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. The Further Notice seeks comment on how to facilitate wireless-to-wireline porting where the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer do not match. The Further Notice also seeks comment on whether the Commission should reduce the current four-business day porting interval for intermodal porting.

**B. Legal Basis for Proposed Rules**

3. The proposed action is authorized under Section 52.23 of the Commission's rules, 47 C.F.R. § 52.23, and in Sections 1, 3, 4(i), 201, 202, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154(i), 201-202, and 251.

**C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply**

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>134</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>135</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act.<sup>136</sup> Under the Small business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established

<sup>132</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>133</sup> See 5 U.S.C. § 603(a).

<sup>134</sup> See 5 U.S.C. § 603(b)(3).

<sup>135</sup> 5 U.S.C. § 601(6).

<sup>136</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions(s) in the Federal Register."

by the Small Business Administration (SBA).<sup>137</sup> A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>138</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>139</sup>

**5. Incumbent Local Exchange Carriers.** We have included small incumbent local exchange carriers LECs in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."<sup>140</sup> The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.<sup>141</sup> We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts. According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services.<sup>142</sup> Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees.<sup>143</sup>

**6. Competitive Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>144</sup> According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services.<sup>145</sup> Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.<sup>146</sup>

**7. Wireless Service Providers.** The SBA has developed a size standard for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under

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<sup>137</sup> 15 U.S.C. § 632.

<sup>138</sup> *Id.* § 601(4).

<sup>139</sup> Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>140</sup> 5 U.S.C. § 601(3).

<sup>141</sup> See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 5 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

<sup>142</sup> FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, at Table 5.3, p 5-5 (Aug. 2003) (*Telephone Trends Report*).

<sup>143</sup> *Id.*

<sup>144</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>145</sup> Telephone Trends Report, Table 5.3.

<sup>146</sup> *Id.*

that standard, such a business is small if it has 1,500 or fewer employees.<sup>147</sup> According to the FCC's *Telephone Trends Report* data, 719 companies reported that they were engaged in the provision of wireless telephony.<sup>148</sup> Of these 719 companies, an estimated 294 have 1,500 or fewer employees and 425 have more than 1,500 employees.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.**

8. To address concerns regarding wireline carriers' ability to compete for wireless customers through porting, future rules may change wireline porting guidelines. In addition, future rules may require wireline carriers to reduce the length of the current wireline porting interval for ports to wireless carriers. These potential changes may impose new obligations and costs on carriers.<sup>149</sup> Commenters should discuss whether such changes would pose an unreasonable burden on any group of carriers, including small entity carriers.

**E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

9. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>150</sup>

10. The Further Notice reflects the Commission's concern about the implications of its regulatory requirements on small entities. Particularly, the Further Notice seeks comment on the concern that wireline carriers, including small wireline carriers, have expressed that permitting wireless carriers to port numbers wherever their rate center overlaps the rate center in which the number is assigned would give wireless carriers an unfair competitive advantage over wireline carriers. Wireline carriers contend that while permitting porting outside of wireline rate center boundaries may facilitate widespread wireline-to-wireless porting, wireless-to-wireline porting can only occur in cases where the wireless customer is physically located in the wireline rate center associated with the phone number. If the customer's physical location is outside the rate center associated with the number, porting the number to a wireline telephone at the customer's location could result in calls to and from that number being rated as toll calls. As a result, LECs assert, they are effectively precluded from offering wireless-to-wireline porting to those wireless subscribers who are not located in the wireline rate center associated with their wireless numbers.

11. The Further Notice seeks comment on how to facilitate wireless-to-wireline porting when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. The Further Notice seeks comment on whether there are technical or regulatory obstacles that prevent wireline carriers from porting-in wireless numbers when the rate center associated with the number and the customer's physical location do not match. The Further Notice

<sup>147</sup> 13 C.F.R. § 121.201, NAICS code 513322.

<sup>148</sup> Telephone Trends Report, Table 5.3.

<sup>149</sup> See e.g., Further Notice, paras. 41, 48-49.

<sup>150</sup> See 5 U.S.C. § 603.

asks commenters that contend that such obstacles exist and result in a competitive disadvantage to submit proposals to mitigate these obstacles.

12. In addition, the Further Notice seeks comment on alternative methods to facilitate wireless-to-wireline porting. To the extent that wireless-to-wireline porting may raise issues regarding the rating of calls to and from the ported number when the rate center of the ported number and the physical location of the customer do not match, the Further Notice seeks comment on the extent to which wireline carriers should absorb the cost of allowing the customers with a number ported from a wireless carrier to maintain the same local calling area that the customer had with the wireless service provider. Alternatively, the Further Notice seeks comment about whether wireline carriers may serve customers with numbers ported from wireless carriers on a Foreign Exchange (FX) or Virtual FX basis. The Further Notice seeks comment on the procedural, technical, and regulatory implications of each of these approaches. These questions provide an excellent opportunity for small entity commenters and others concerned with small entity issues to describe their concerns and propose alternative approaches.

13. The Further Notice also seeks comment about whether the Commission should require wireline carriers to reduce the length of the current wireline porting interval for ports to wireless carriers. The Further Notice analyzes the current wireline porting interval and seeks comment about whether there are technical or practical impediments to requiring wireline carriers to achieve shorter porting intervals for intermodal porting. The Further Notice recognizes that, if a reduced porting interval was adopted, carriers may need additional time to modify and test their systems and procedures. Accordingly, the Further Notice seeks comment on an appropriate transition period in the event a shorter porting interval is adopted.

14. Throughout the Further Notice, the Commission emphasizes in its request for comment, the individual impacts on carriers as well as the critical competition goals at the core of this proceeding. The Commission will consider all of the alternatives contained not only in the Further Notice, but also in the resultant comments, particularly those relating to minimizing the effect on small businesses.

**F. Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules**

15. None.

## SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: *In re Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; CC Docket No. 95-116*

After today it's easier than ever to cut the cord. By firmly endorsing a customer's right to untether themselves from the wireline network – and take their telephone number with them – we act to eliminate impediments to competition between wireless and wireline services. Seamless wireline-to-wireless porting is another landmark on the path to full fledged facilities-based competition.

Our action promises significant consumer benefits for wireline and wireless customers. I have heard the concerns expressed by some wireline providers that wireline network architectures and state-imposed rate centers complicate number portability. This proceeding has undoubtedly focused the Commission's attention on these issues. State regulators have long been champions of local number portability and I appreciate their support. I look forward, however, to working with my colleagues in the states to remove additional barriers to inter-modal local number portability such as the difficulty of some providers to consolidate rate centers to more accurately match wireless carrier service areas.

In the end, the consumer benefits associated with inter-modal LNP convince me that the time for Commission action is now. No doubt there will be some bumps in the road to implementation, but I trust that carriers will use their best efforts to ensure consumers have the highest quality experience possible. I look forward to the Commission's November 24<sup>th</sup> trigger for this obligation and to working with my colleagues to ensure that full wireline to wireless portability is a reality for all consumers everywhere.

**SEPARATE STATEMENT OF  
COMMISSIONER KATHLEEN Q. ABERNATHY**

*Re: Telephone Number Portability – CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116*

This Order removes the final roadblocks to implementing wireline-to-wireless number portability, which is an important step in facilitating intermodal competition. The Commission mandated local number portability (LNP) within and across the wireline and wireless platforms, where technically feasible, with the goal of maximizing consumer choice. As of November 24, 2003, this goal will become a reality: Most consumers who seek to switch wireless providers or to move from a local exchange carrier to a wireless carrier will be able to retain their existing telephone numbers. While I expressed sympathy in the past to arguments that the November 24 deadline was premature, our present focus must be on implementation, and the foregoing Order provides much-needed clarity regarding the parties' obligations.

I recognize that wireline network architecture and state rating requirements will prevent many (if not most) consumers from porting wireless numbers to wireline carriers. Although, in the short term, wireline carriers will have more limited opportunities to benefit from intermodal LNP than wireless carriers will, I was simply not willing to block consumers from taking advantage of the porting opportunities that are technologically feasible today. I am hopeful that existing obstacles to wireless-to-wireline porting will be addressed as expeditiously as possible through technological upgrades and, where necessary, state regulatory changes.

Finally, I am pleased that the Commission is stepping up its consumer outreach efforts on the issues of wireless and intermodal LNP. To this end, I commend the recent proactive efforts of the Wireless Telecommunications Bureau and the Consumer and Government Bureau to educate the public about our LNP rules. I am also pleased with the recent efforts of industry to reach out to consumers so that they understand what number-porting opportunities are available to them. For consumers to benefit from our expanded LNP regime, it is imperative for them to have sufficient information to make the most appropriate choices for themselves.



**SEPARATE STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Telephone Number Portability CTIA Petitions for Declaratory Ruling  
on Wireline-Wireless Porting Issues (CC Docket No. 95-116)*

With today's action, consumers are assured that intermodal telephone number portability will begin, at last, to become a reality later this month. After numerous delays, consumers are on the verge of enjoying the significant new ability to take their current telephone numbers with them when they switch between carriers and technologies. This gives consumers much sought-after flexibility and it provides further competitive stimulus to telephone industry competition. This makes it a win-win situation for consumers and businesses alike.

It was some seven years ago, in the 1996 Act, when Congress recognized that the ability of consumers to retain their phone numbers when switching providers would facilitate the development of competition. Congress instructed us to get this job done and to use "technical feasibility" as our guide in making sure the vision became reality. This we have labored mightily to do. As a result, American consumers will be able to take their digits with them, unimpeded by the hassle, loss of identity and attendant expenses that until now have accompanied switching between service providers and technologies.

The bulk of the problems accompanying the challenge of porting numbers are behind us now. A very limited few remain and these are the subject of the Further Notice of Proposed Rulemaking also approved today. I am confident that these can be handled expeditiously if all interested parties work together. Similarly, any minor implementation problems that develop should be amenable to swift and cooperative corrective actions. It has taken considerable cooperation to bring us to this important point, and I believe consumer support for porting will encourage all parties to reach quick resolution of the few remaining challenges.

Finally, it is difficult to see how we are ever going to have true intermodal competition in the telephone industry apart from initiatives like the one we embark on today. Intermodal competition always receives strong rhetorical support. Today it gets some action, too.

**SEPARATE STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116*

I am pleased to support this item because it provides important consumer benefits by promoting competition in the wireline telephone market. One of the primary reasons I supported wireless local number portability is the additional competition it is likely to encourage in the wireline market. See Press Statement of Commissioner Kevin J. Martin on the Commission's Decision on Verizon's Petition for Permanent Forbearance from Wireless Local Number Portability Rules (July 16, 2002). As I stated last year, the ability to transfer a wireline phone number to a wireless phone is an important part of ensuring that competition with wireline phones continues to grow. I am glad that today the full Commission agrees.

I am disappointed, however, that the Commission was not able to provide this guidance until weeks before the LNP requirement is scheduled to take effect. The Commission has an obligation to minimize the burdens our regulations place on carriers, and I wish we had provided the guidance in this Order considerably sooner.

Finally, I recognize that LNP – although very important for consumers – places real burdens on the carriers, particularly the small and rural carriers. Accordingly, I support the decision to waive our full porting requirements until May 24, 2004, for wireline carriers operating in areas outside of the largest 100 MSAs. I am also pleased that we emphasize that those wireline carriers may file waiver requests if they need additional time.

**SEPARATE STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: In re Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; CC Docket No. 95-116*

I am pleased to support this Order because it clarifies that our rules and policies provide for enhanced number portability opportunities for American consumers. Specifically, we enable consumers to port their wireline telephone numbers to local wireless service providers. We also affirm that wireless carriers are required to port telephone numbers to wireline carriers but recognize that wireline carriers are only able to receive those numbers from wireless carriers on a limited basis. Finally, we rightly seek comment on how to deal with these limitations and further facilitate wireless-to-wireline porting.

I believe that our decision is consistent with Section 251(b) of the Communications Act, which requires local exchange carriers (LECs) to provide local number portability to the extent technically feasible. However, I do recognize that there may be certain limitations on the ability of the nations' smallest LECs to technically provide local number portability. In this regard, I am extremely pleased we made the decision to waive until May 24, 2004, the requirement of LECs operating in areas outside of the largest 100 MSAs to port numbers to wireless carriers that do not have a point of interconnection or numbering resource in the rate center where the LEC customer's wireline number is provisioned.

I recognize that there may be other compelling circumstances that make it disproportionately difficult for these same LECs to provide full number portability. Consequently, I am pleased we agreed to the language in the item recognizing that those wireline carriers may need to file additional waivers of our LNP requirement.

I remain concerned, however, that today's clarification of our LNP rules and obligations will exacerbate the so-called "rating and routing" problem for wireless calls that are rated local, but are in fact carried outside of wireline rate centers. While I appreciate the language in the Order that clarifies that ported numbers must remain rated to the original rate center, the rating and routing issue continues to remain unresolved for rural wireline carriers as well as neighboring LECs and the wireless carriers whose calls are being carried. I believe that we must redouble our efforts to resolve this critical intercarrier compensation issue as quickly and comprehensively as possible.

Finally, I take very seriously the concerns of those wireline carriers that have argued wireline-to-wireless number portability should be limited pending the resolution of issues associated with full wireless-to-wireline porting. While I do not believe that these concerns outweigh the very significant benefits to American consumers that our clarification provides today, I do want to highlight my keen interest in working both with industry and the Chairman and my fellow Commissioners on solutions to address this inequity. The Commission should constantly strive to level the proverbial playing field, and the situation presented by our LNP rules and policies should not be any different.

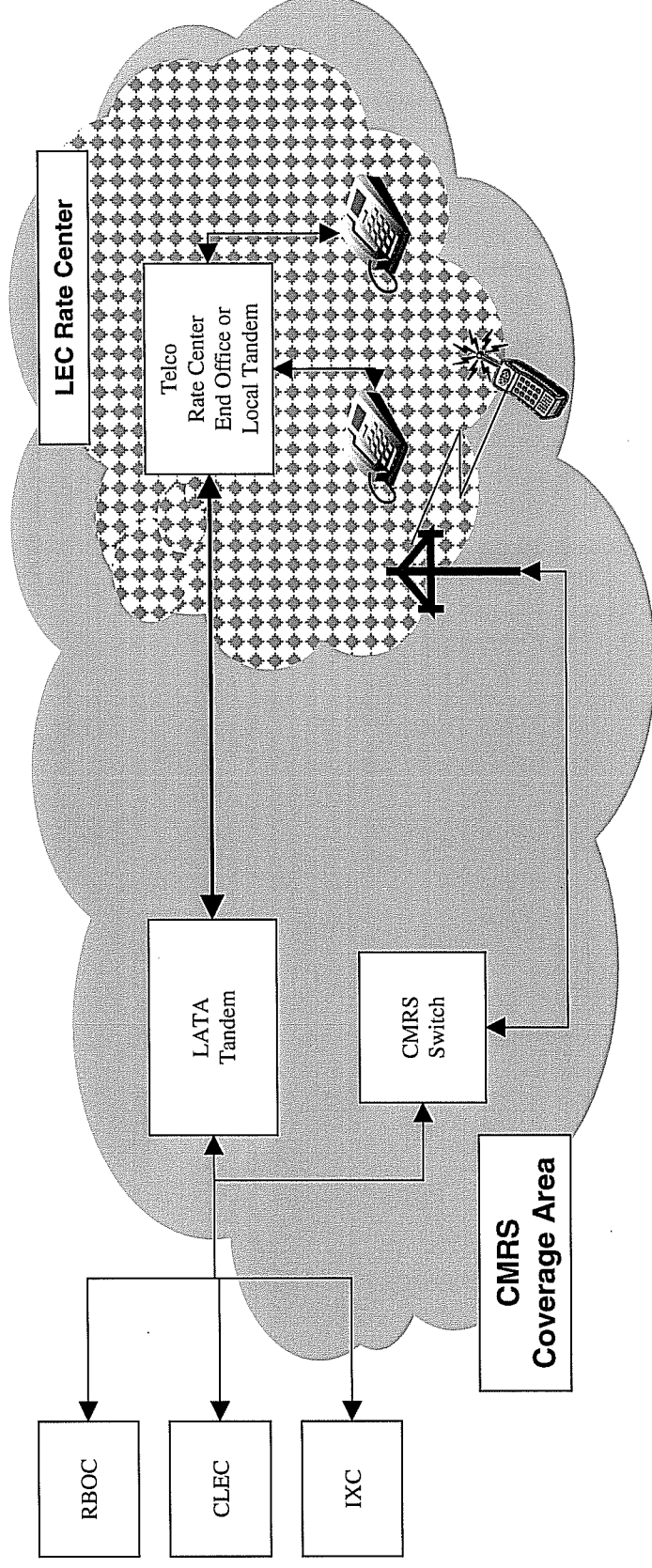
CONFIDENTIAL

#2

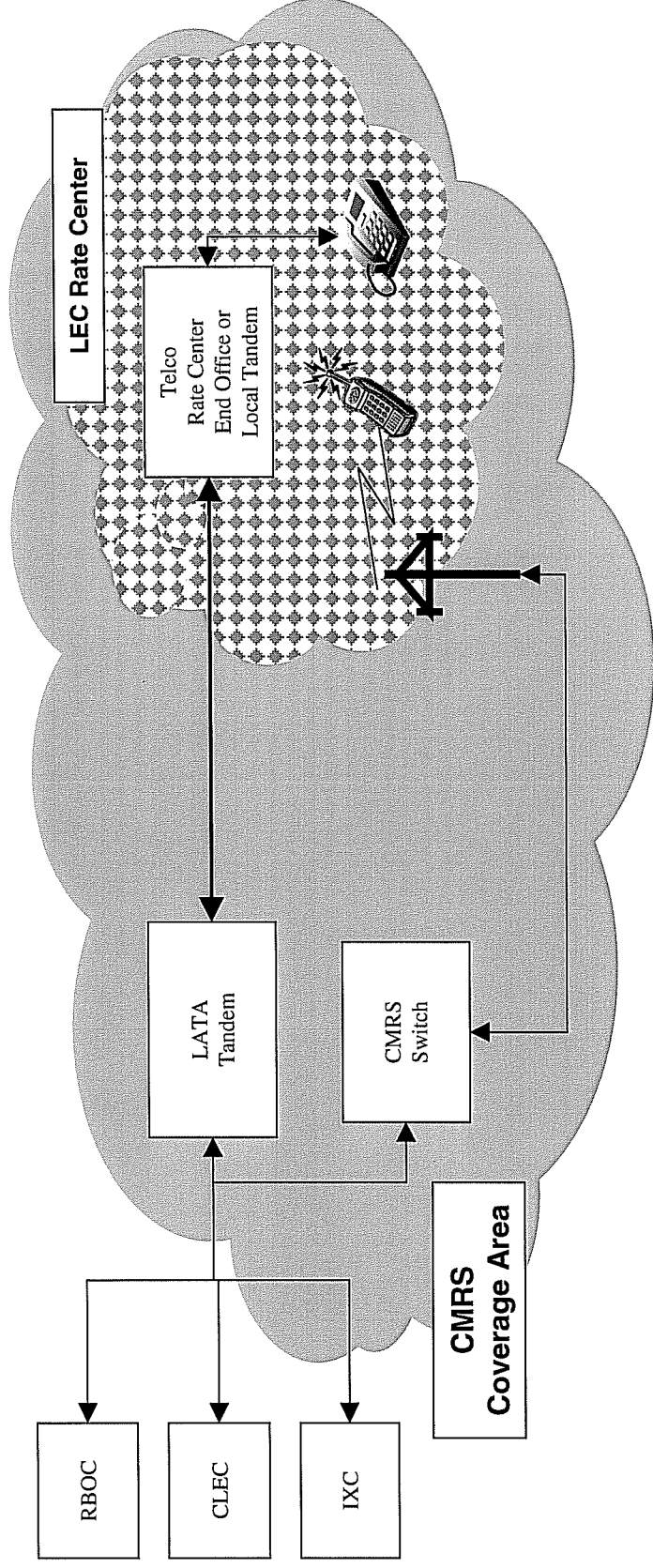
TC 04 - 025

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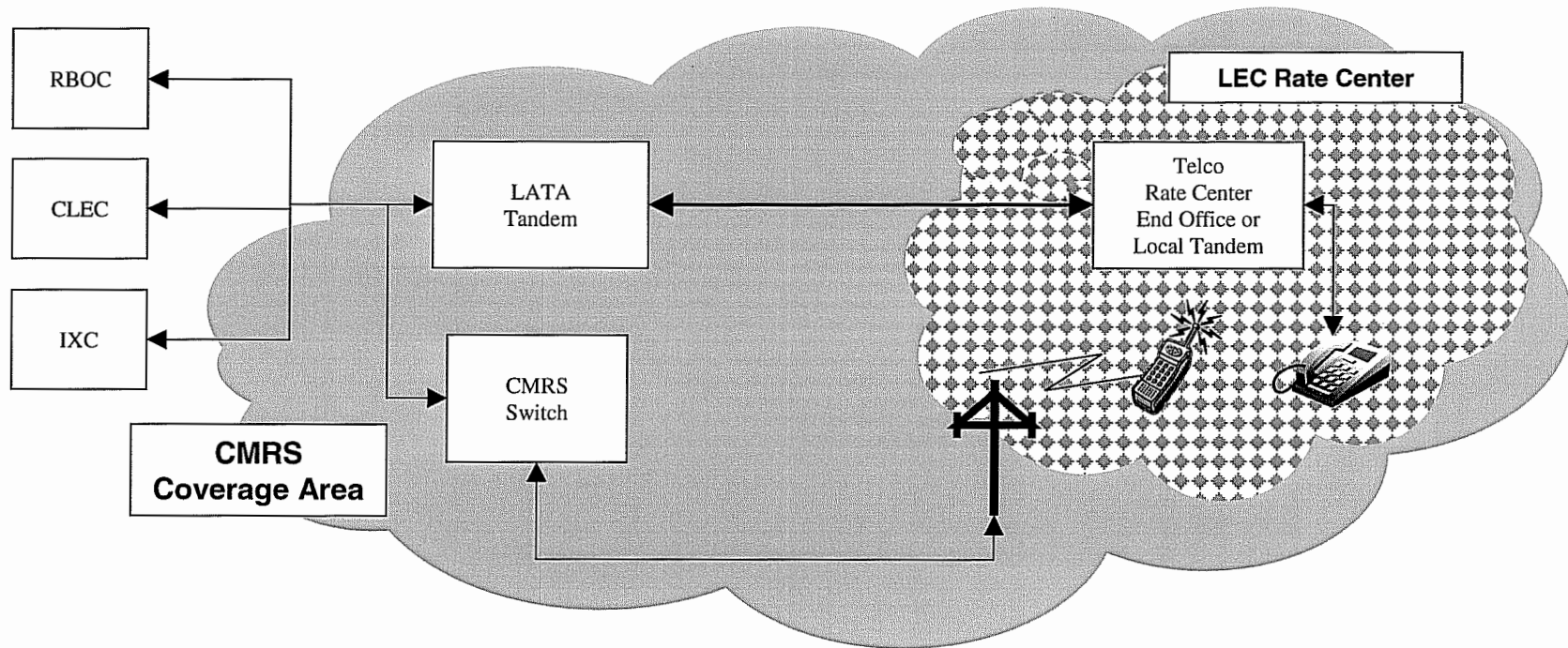
# Pre-Port Routing



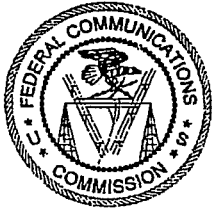
# Post-Port Tandem Routing



# Post-Port Tandem Routing



For Demonstrative Purposes Only – Western Wireless Corporation



Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Office of The Bureau Chief

**CGB**

06 May 2004

Via MAIL and FASCIMILE

The Honorable Stan Wise  
Commissioner, Georgia Public Service Commission  
President, National Association of Regulatory Utility Commissioners  
244 Washington Street, S.W.  
Atlanta, GA 30334

Dear Stan:

I want to express my deep appreciation for the efforts of National Association of Regulatory Utility Commissioners (NARUC) and its members in making the initial deployment of wireless number portability such a success. Since November 24, 2003, more than three million consumers have been able to choose a new wireless carrier or switch between a wireless and wireline carrier without having to sacrifice their telephone number. As you know, after May 24, 2004, consumers outside of the top markets will possess the power to make the same choice. In light of the approaching opportunity for *all* American consumers to take their phone numbers with them, I wanted to write you out of concern about certain rural wireline carriers' requests for waivers of their porting obligations that are pending in many states.

When considering requests to waive these important, consumer-friendly obligations, states should remain mindful of the tremendous customer benefits that porting generates. I know that NARUC and the FCC agree that the ability of wireless and wireline consumers to port their numbers remains central to producing competition, choice, lower costs, and increased innovation. These benefits are particularly important in rural areas where competition may be less robust than in more urban markets.

It is with those policies in mind that I hope that you, in your capacity as NARUC's president, will encourage state commissions to hold carriers that seek waivers of their porting obligations to the appropriate standard of review. At this point, I understand that many rural wireline carriers have sought waivers of their obligations, and that, in some cases, waivers have been granted. Of course, states have jurisdiction to waive porting obligations for certain rural telephone companies under Section 251(f) of the Telecommunications Act of 1996, where carriers demonstrate undue economic burden or technological infeasibility. I think we can agree that the State commissions should strictly apply that statutory standard so that the rights of consumers are protected. I encourage the State commissions to ensure that carriers seeking waivers demonstrate that they are on a path to compliance so that customers of these



carriers will not be forever denied the rights their fellow consumers enjoy. If relief were to be granted in the absence of extraordinary circumstances, or for indefinite periods, it would be a setback for rural consumers. It should be noted that some of the same carriers that now seek to have their porting obligations waived have long known that they would, absent a demonstration of undue burden, be required to provide porting to both wireline and wireless carriers.

As we approach the May 24, 2004 deadline for nationwide local number portability deployment, the FCC looks forward to working with NARUC and the State Commissions to make sure that the interests of the American consumer are protected. Because of the publicity regarding the nationwide implementation of wireless and intermodal LNP, consumers in all markets will expect to receive its benefits. Where it is deemed appropriate to grant relief, it is important that consumers be educated so that they can make informed decisions as to their telephone service.

I would be happy to discuss this issue further with you or any of your members in the coming weeks.

Sincerely yours,

A handwritten signature in black ink, appearing to read "K. Dane Snowden", with a long horizontal flourish extending to the right.

K. Dane Snowden  
Chief  
Consumer & Governmental Affairs Bureau

CC: Commissioner Robert Nelson, Chair, Telecommunications Committee, NARUC  
Commissioner Carl Wood, Chair, Consumer Affairs Committee, NARUC  
John Muleta, Chief, Wireless Telecommunications Bureau  
William Maher, Chief, Wireline Competition Bureau

A wide banner image spans the top of the page. It features a dark, grainy background with a cityscape or industrial scene. Overlaid on the right side of the banner is the text "Washington Watch" in a large, white, serif font.

# Washington Watch

A Publication of the NECA D.C. Office  
Washington Watch

Edited by Deborah Long

**March 18, 2004**

Past Issues

Studies show that as much as 20 % of minutes processed by end office switches is going unbilled. This unbilled "Phantom Traffic" is the focus of a one-day conference April 7, 2004 in Washington, DC. For more information please see the Conference Brochure

## NECA FILINGS

### NECA TARIFF FCC NO. 5

#### Transmittal No. 1018

3/17/2004 - NECA filed Transmittal No. 1018, revising its Tariff F.C.C. No. 5 to become effective April 1, 2004. This filing makes additions and miscellaneous changes to the listings of companies in the Title Pages, Optional Rate Plan Availability, DSL Access Services Availability and Federal Universal Service Charge sections.

### NECA TARIFF FCC NO. 5

#### Transmittal No. 1019

3/17/2004 - NECA filed Transmittal No. 1019, revising its Tariff F.C.C. No. 5 to become effective April 1, 2004. This filing adds Commonwealth Telephone Company to the list of companies applying Local Number Portability (LNP) End User Charges.

### NECA TARIFF FCC NO. 5

#### Transmittal No. 1020

3/17/2004 - NECA filed Transmittal No. 1020, revising its Tariff F.C.C. No. 5 to become effective April 1, 2004. This filing modifies NECA's Asynchronous Transfer Mode Cell Relay Access (ATM-CRS) and Digital Subscriber Line Access (DSL) Services. Specifically, this filing: 1) reduces the monthly rates for most existing ATM-CRS Port speeds, 2) introduces a third discount commitment level under the DSL Access Services Discount Pricing Arrangement, 3) introduces a non-chargeable optional function associated with ATM-CRS Ports enabling customers to transport Internet Protocol packets over the Telephone Company's network, and 4) removes the local exchange service copper-only requirement for ADSL and SDSL Access Services.

## FCC RELEASES

### LNP

#### **Order, CC Docket No. 95-116, DA 04-726**

3/17/2004 - The FCC has granted the requests of Cellular Telecommunications and Internet Association, Cingular Wireless, LLC, AT&T Wireless Services, Inc. and ALLTEL Communications, Inc. to withdraw their petition for a rulemaking asking the FCC to rescind the rule requiring commercial mobile radio service (CMRS) providers to provide local number portability.

### SECTION 272

#### **Report and Order, CC Docket Nos. 03-228, 96-149, 98-141, 96-149 and 01-337, FCC 04-54**

3/17/2004 - The FCC issued a Report and Order removing prohibition against sharing by BOCs and their section 272 affiliates of operating, installation, and maintenance (OI&M) functions. The Commission concluded that it should retain the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located. The Commission dismissed as moot petitions filed by SBC and BellSouth, pursuant to section 10 of the Act, seeking forbearance from the OI&M sharing prohibition. The Commission also granted SBC's request for modification of the SBC/Ameritech Merger Order conditions related to OI&M services to the extent that these merger conditions are incorporated into the conditions of the SBC Advanced Services Forbearance Order

## INDUSTRY FILINGS

### USF

#### **Ex Parte, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170**

3/16/2004 - Representatives of Microsoft met with Commissioners Adelstein, Abernathy, Copps and Martin and their staff members to explain that policy makers should keep in mind that regulations adopted to suit the PSTN might not translate well into an IP-centric Framework. In terms of Universal Service funding mechanisms, Microsoft believes that either a numbers-based or connections-based approach would be better than today's mechanism, but should be considered only as an interim step.

### UNBUNDLED NETWORK ELEMENTS

#### **Ex Parte, CC Docket Nos. 01-338, 96-98 and 98-147**

3/17/2004 - In a letter to Commissioner Copps, Earthlink submitted a letter to explain its position on reconsideration of the line sharing unbundled network element rules in light of the D.C. Circuit Court's recent decision in USTA v. FCC. Earthlink states that line splitting is not a functional substitute for line sharing, nor is it a long-term competitive alternative to line sharing.

## FEDERAL REGISTER

### BIENNIAL REVIEW

#### **Notice, WC Docket No. 02-313, FCC 03-337, FR Doc 04-5657**

03/18/04 - The Commission has published a notice in the Federal Register setting the comment dates for its inquiry on whether certain rules should be repealed or modified because they are no longer necessary in the public interest. **Comments are due April 19, 2004. Reply Comments are due May 3, 2004.**



## OTHER NEWS

Speaking at a CITA forum on LNP issues, Wireless Bureau Assistant Chief David Firth said that the volume of actual number porting would not be the measure of success, but giving customers the option to port was most important. He indicated that carriers outside of the 100 largest MSA's should be testing and preparing for the May 24, 2004 LNP deadline and that the Commission would not be very sympathetic to last minute waiver requests. He said that the Bureau in its orders has resolved most of the implementation issues. However, if there were still a lack of clarity on certain issues, such as overlapping boundaries, after May 24 the Bureau would consider issuing further guidelines. Responding to questions, he indicated that rating and routing issues between carriers are not porting issues and are therefore not a valid reason for refusing to port. He said that if carriers are experiencing problems with non-compliance by certain carriers, those are enforcement issues and need to be called to the Commission's attention.

The Western Governors Association has sent a letter to Congressional leaders asking them to urge Congress to examine the current Universal Service Fund distribution formula for non-rural carriers, which serve both rural and non-rural areas. The Governors asked Congress to help remedy the imbalance in the distribution of funds. <http://www.westgov.org/wga/testim/usf-ltr3-17-04.pdf>

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November 18, 2003

Interstate Telecom Coop, Inc.  
Jerry Heiberger  
312 4<sup>th</sup> Street West  
Clear Lake, SD 57226

Subject: Bona Fide Request for Local Number Portability

Dear Mr. Heiberger:

To ensure the availability of Local Number Portability (LNP) for marketplace competition, the FCC has required carriers to make a specific request for the implementation of LNP. The purpose of this letter is to request provisioning of Local Number Portability (LNP) in areas where Western Wireless (dba CellularOne®) is licensed to do business.

Western Wireless Corporation, on behalf of its subsidiaries and affiliates ("Western Wireless"), hereby submits the enclosed Bona Fide Request ("BFR") to Interstate Telecom Coop, Inc. ("ITC") that it be prepared, no later than May 24, 2004, to support Local Number Portability ("LNP") between Western Wireless and ITC in all its switching centers.

The enclosed form identifies the areas where any serving switches must be opened for porting by May 24, 2004. Please carefully review this form, validate ITC is responsible for the identified switches, and confirm the date by which these switches will be LNP capable.

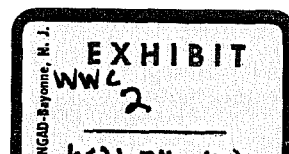
Also, please confirm the receipt of this request within 10 days.

If there are any questions or concerns, please contact me via email at [ron.williams@wwireless.com](mailto:ron.williams@wwireless.com) or via phone at (425) 586-8360.

Sincerely,

Ron Williams  
Director – InterCarrier Relations

Enclosure



# Bonafide Request Form (BFR) for Local Number Portability (LNP)

**Purpose:** This form is used to request deployment of long-term Local Number Portability as defined in the FCC mandates (CC Docket 95-116). Specifically, this form requests that ALL codes be opened for portability within the wireline and/or wireless switch CLLI codes designated below.

## TO (RECIPIENT):

**Company Name:** Interstate Telecom Coop, Inc.

**Contact Name:** Jerry Heiberger

**Contact's Address:** 312 4th Street West  
Clear Lake, SD 57226

**Contact's Email:**

**Contact's Fax:**

**Contact's Phone:** 605-874-2181

## FROM (REQUESTOR):

**Company Name:** Western Wireless Corporation

**Contact Name:** Ron Williams

**Contact's Address:** 3650 131st Ave. S.E. Suite 400  
Bellevue, Washington 98006

**Contact's Email:** [ron.williams@wwireless.com](mailto:ron.williams@wwireless.com)

**Contact's Fax:** 425 586-8118

**Contact's Phone:** 425 586-8360

## TIMING:

**Date of Request:** November 18, 2003

**Receipt Confirmation Due By:** December 2, 2003 (Due no later than 10 days after the Date of Request)

**Effective Date:** May 24, 2004

## Designated Metropolitan Statistical Areas (MSAs):

Note: MSAs and RSAs refer to the U.S. Census Bureau designations. These may differ from the MSAs as separately defined by the wireless or wireline industries.

**MSA/RSA NAME:** RSA 637 - South Dakota 4 - Marshall RSA  
RSA 641 - South Dakota 8 - Kingsbury RSA

## **Switch CLLI Codes:**

### **OCN 1651**

ASTORIA	ASTRSDXARS1	ESTELLINE	ESTLSDXADS0
BRADLEY	BRDLSDXARS1	FLORENCE	FLRNSDXARS1
BRANDT	BRNTSDXARS2	GARY	GARYSDXADS0
BROOKINGS	BKNGSDXBDS0	GOODWIN	GDWNSDXARS4
BRYNTWLWLK	WLLKSDXARS6	HAYTI	HAYTSDXARS1
BRYNTWLWLK	BRYNSD01RS0	LAKENORDEN	LKNRSD01RS0
CASTLEWOOD	CSWDSXARS1	NUNDA	NUNDSXARS2
CHESTER	CHESSDXARS1	SINAI	SINASDXARS3
CLARK	CLRKSDXADS0	TORONTO	TOROSDXARS5
CLEAR LAKE	CLLKSDXADS0	WAUBAY	WABYSDXARS1
EAST GARY	GARYSDXADS0	WEBSTER	WBSTSDXADS0
EASTELKTON	EKTNSDXARS3	WENTWORTH	WNWOSDXARS4
ELKTON	EKTNSDXARS3	WHITE	WHTESDXARS6

Signature of authorized representative acknowledging receipt of BFR

Date Signed

## **Bonafide Request Form (BFR) for Local Number Portability (LNP)**

### **Actions Required of the Recipient:**

- 1. Within 10 days of receipt, verify recipient contact information, sign and return this form, and provide confirmation to the requestor that this form has been received.**
- 2. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs or wireline switch CLLI codes (where applicable), open all for porting within the LERG.**
- 3. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open all for porting within the NPAC (Number Portability Administration Center).**
- 4. Ensure that all switches handling codes within the designated MSAs are Local Number Portability capable.**

## Bonafide Request Form (BFR) for Local Number Portability (LNP)

**Purpose:** This form is used to request deployment of long-term Local Number Portability as defined in the FCC mandates (CC Docket 95-116). Specifically, this form requests that ALL codes be opened for portability within the wireline and/or wireless switch CLLI codes designated below.

### TO (RECIPIENT):

**Company Name:** Interstate Telecom Coop, Inc.

**Contact Name:** Jerry Heiberger

**Contact's Address:** 312 4th Street West  
Clear Lake, SD 57226

**Contact's Email:**

**Contact's Fax:**

**Contact's Phone:** 605-874-2181

### FROM (REQUESTOR):

**Company Name:** Western Wireless Corporation

**Contact Name:** Ron Williams

**Contact's Address:** 3650 131st Ave. S.E. Suite 400  
Bellevue, Washington 98006

**Contact's Email:** [ron.williams@wwireless.com](mailto:ron.williams@wwireless.com)

**Contact's Fax:** 425 586-8118

**Contact's Phone:** 425 586-8360

### TIMING:

**Date of Request:** November 18, 2003

**Receipt Confirmation Due By:** December 2, 2003 (Due no later than 10 days after the Date of Request)

**Effective Date:** May 24, 2004

### Designated Metropolitan Statistical Areas (MSAs):

Note: MSAs and RSAs refer to the U.S. Census Bureau designations. These may differ from the MSAs as separately defined by the wireless or wireline industries.

**MSA/RSA NAME:** RSA 489 - Minnesota 8 - Lac qui Parle RSA

<b>Switch CLLI Codes:</b>	<b>OCN 1654</b>		
HENDRICKS	HNDRMNXHRS2	WHENDRICKS	HNDRMNXHRS2
LAKEBENTON	LKBNMNXLRS3		

\_\_\_\_\_  
Signature of authorized representative acknowledging receipt of BFR

\_\_\_\_\_  
Date Signed



# Bonafide Request Form (BFR) for Local Number Portability (LNP)

## Actions Required of the Recipient:

1. Within 10 days of receipt, verify recipient contact information, sign and return this form, and provide confirmation to the requestor that this form has been received.
2. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs or wireline switch CLLI codes (where applicable), open all for porting within the LERG.
3. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open all for porting within the NPAC (Number Portability Administration Center).
4. Ensure that all switches handling codes within the designated MSAs are Local Number Portability capable.

# SHIPPING REQUEST FORM

DATE

11/18/03

Please fill out COMPLETELY and LEGIBLY. If you have any questions please call the mailroom at X8049 or X8267.

(All shipments will be sent via Airborne unless the specified service is only available through a different carrier.)

## DESTINATION

Commercial

Residential

International

Value (US)\$

## SERVICE LEVEL

Priority Next AM

Next Afternoon

2 Day Air

Airborne Ground

Saturday

## BILLING

Western Wireless

Recipient Acct#

3<sup>rd</sup> Party Acct#

ADDRESS (PO boxes are not accepted)

Company:

INTERSTATE TELECOM COOP, INC.

Attention:

JERRY HEIBERGER

Street Address:

312 4TH ST. WEST

City, State, Zip:

CLEAR LAKE, SD 57226

Recipient Phone#:

Requested by:

Mike Wilson

Extension:

8633

Special Instructions:

FULL 10 DIGIT PEOPLESFT CODE REQUIRED

BU#

010

DEPT#

8250

LOCATION#

002

Interstate Telecommunications  
Cooperative, Inc.  
312 4th Street West  
P.O. Box 920  
Clear Lake, South Dakota 57226

INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.



Phone: 605.874.2  
1.800.417.8  
Fax: 605.874.2  
E-Mail: [info@itc-web.com](mailto:info@itc-web.com)  
[www.itc-web.com](http://www.itc-web.com)

November 21, 2003

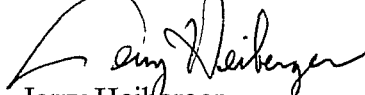
Ron Williams  
Western Wireless Corporation  
3650 131<sup>st</sup> Ave. S.E. Suite 400  
Bellevue, Washington 98006

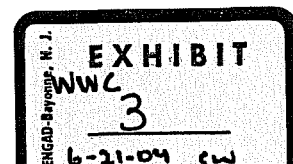
Dear Mr. Williams:

This letter responds to your letter dated November 18, 2003, concerning local number portability. We currently are reviewing your request and will respond further when our review is complete.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,  
Interstate Telecommunications Cooperative, Inc.

  
Jerry Heiberger  
General Manager



## NO POUCH NEEDED.

66

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**Recipient's records.**

**FedEx Tracking Number**

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Wireless

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## Recipients' Copy

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Second business day

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at FedEx Location

goods?

required  
FedEx packaging.

☐ Third Party

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10

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December 19, 2003

Jerry Heiberger  
Interstate Telecom Coop, Inc.  
312 4th St West  
Clear Lake, SD 57226

Subject: Number Portability Operations Agreement

Dear Mr. Heiberger:

Western Wireless has received your confirmation of our Bona Fide Request ("BFR") for Local Number Portability ("LNP") issued to Interstate Telecom Coop, Inc.. We appreciate your prompt response and look forward to working with you to insure successful implementation of number portability in your service area.

Attached hereto is a proposed *Local Number Portability Operations Agreement* to govern the porting of telephone numbers between our networks. The agreement is intended to establish a reasonable process and set of standards for local number portability. While such an agreement is not required to implement porting, Western Wireless believes that such an agreement will ensure a more efficient and effective means for both parties to meet their obligations associated with number portability.

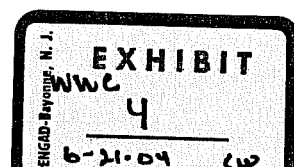
Upon your review of this proposed agreement, please contact me at your earliest convenience so that we can discuss the terms of the agreement and make arrangements on how best to proceed with negotiations. At a minimum, I would like to coordinate with you on a monthly basis on the status of this agreement and the implementation of number portability. Please acknowledge receipt of this agreement and let me know the date and time within the next month that we can discuss further.

I can be reached by phone at 425-586-8633, by facsimile at 425-586-8118, or via email at [mike.wilson@wwireless.com](mailto:mike.wilson@wwireless.com).

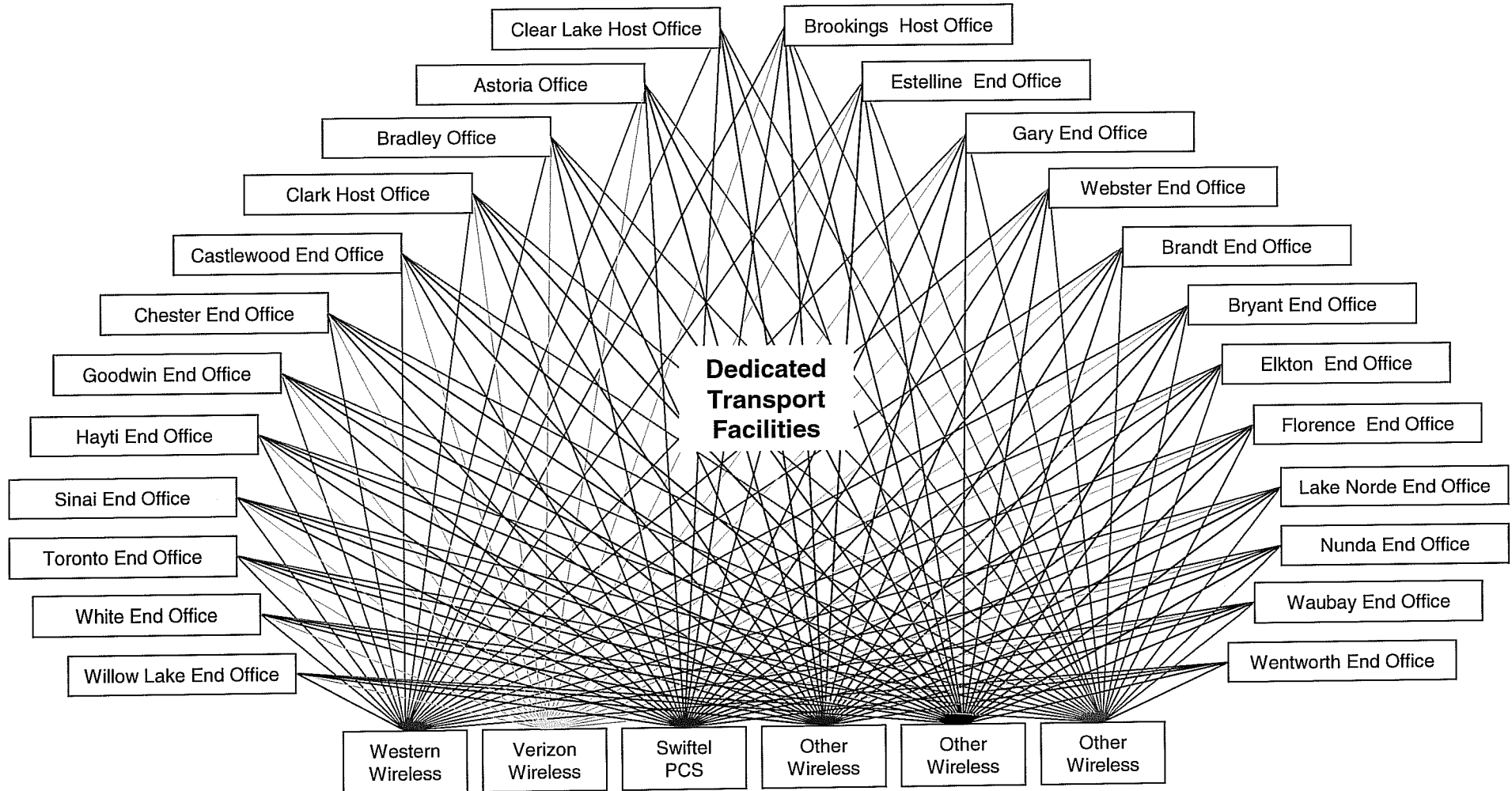
Sincerely,

Mike Wilson  
Manager – Regulatory Compliance

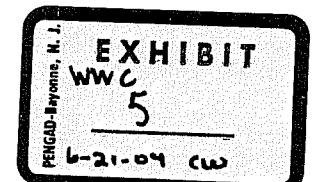
Enclosure



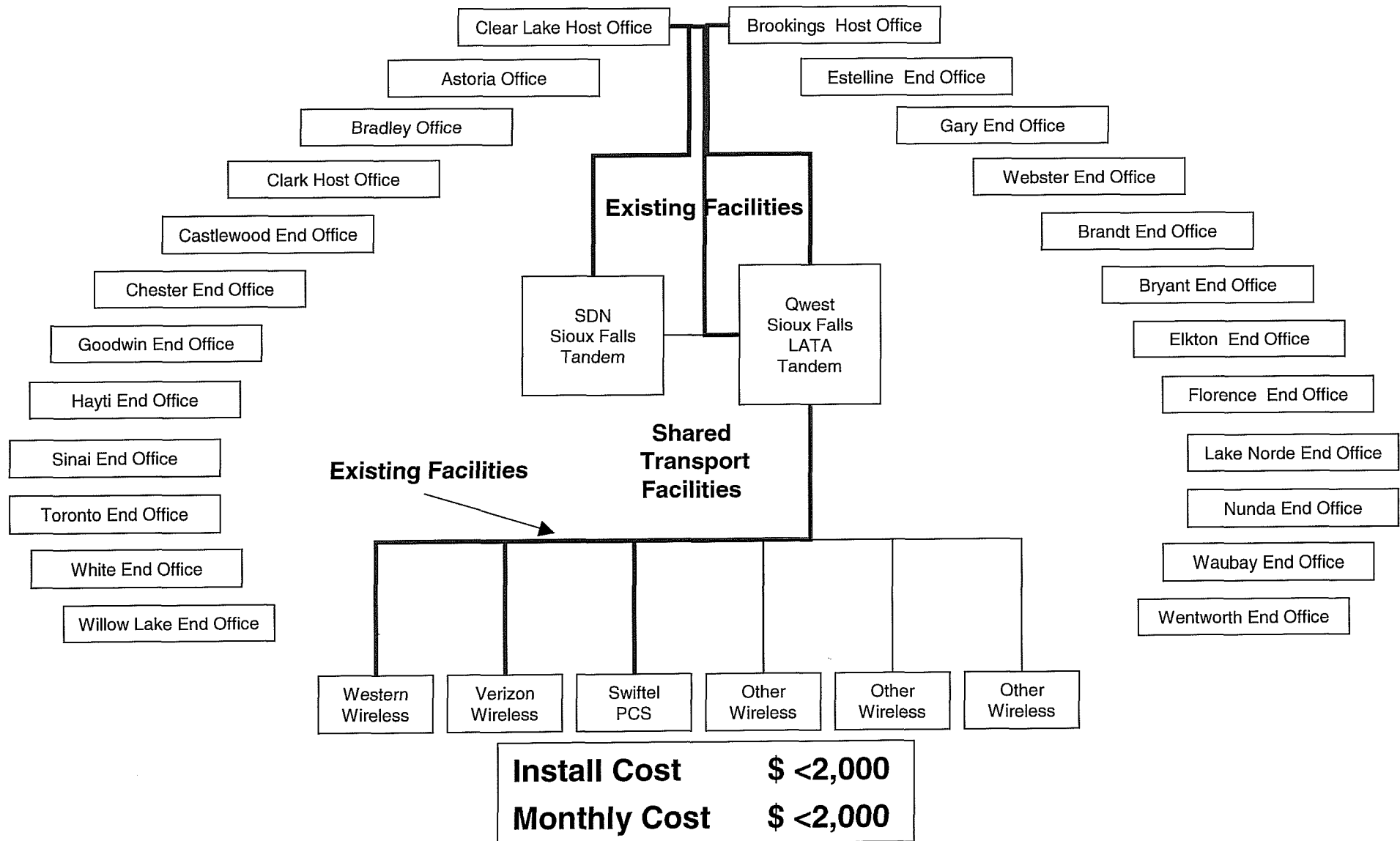
# Routing Proposed by Interstate Telecom



<b>Install Cost</b>	<b>\$ 576,000</b>
<b>Monthly Cost</b>	<b>\$ 165,870</b>



# Tandem Routing Options Available to Interstate Telecom



**PUBLIC DOCUMENT - TRADE SECRET DATA EXCISED**

STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer  
Marshall Johnson  
Kenneth Nickolai  
Phyllis Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

**In the Matter of the Petition by the Minnesota  
Independent Coalition for Suspension or Modification  
of Local Number Portability Obligations Pursuant to  
47 U.S.C. § 251(f)(2)**

MPUC Docket No.: \_\_\_\_\_

**ORIGINAL FILING**

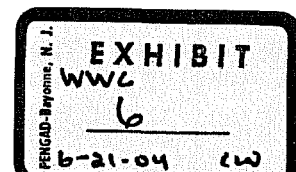
The member companies of the Minnesota Independent Coalition listed on Exhibit 1 submit this Petition to the Minnesota Public Utilities Commission pursuant to 47 U.S.C. § 251(f)(2) and Minn. Rules pt. 7811.2100, to request the suspension or modification of obligations under 47 U.S.C. § 251(b)(2) to provide local number portability to requesting Commercial Mobile Radio Service providers.

The filing includes the following attachments:

Attachment 1	One paragraph summary of the filing in accordance with Minn. Rules pt. 7829.1300.
Attachment 2	Petition for Suspension or Modification of Requirements under 47 U.S.C. § 251(b)(2), which contains a description of the filing, the impact on services and affected ratepayers, and the reasons for the filings, provided in accordance with Minn. Rules pt. 7829.1300, subp. 4(F).
Attachment 3	Affidavit of Service.

In addition, the following information is provided, in accordance with Minn. Rules pt. 7829.1300, subp. 4:

Utility See Exhibit 1





Attorneys for Utility

CHARLES A. HOFFMAN  
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Date of Filing

May 10, 2004

Proposed Effective Date

Immediately upon issuance of Commission Order

Controlling Statute for Time  
in Processing the Filing

47 U.S.C. § 251(f)(2) and Minn. Rule 7811.2100,  
subp. 11

If additional information is required, please contact Charles A. Hoffman, Esq., at (612)

672-8368.

May 10, 2004

Respectfully submitted,

By: 

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Attorneys on Behalf of the Minnesota Independent  
Coalition

**PUBLIC DOCUMENT -TRADE SECRET DATA EXCISED**Attachment 1**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye  
Marshall Johnson  
Kenneth Nickolai  
Phyllis Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition by the Minnesota  
Independent Coalition. for Suspension or Modification  
of Local Number Portability Obligations Pursuant to  
47 U.S.C. § 251(f)(2)

MPUC Docket No.: \_\_\_\_\_

**SUMMARY OF FILING**

The member companies of the Minnesota Independent Coalition listed on Exhibit 1 have petitioned the Minnesota Public Utilities Commission pursuant to 47 U.S.C. § 251(f)(2) and Minn. Rules pt. 7811.2100 to request the suspension or modification of obligations under 47 U.S.C. § 251(b)(2) to provide local number portability to requesting Commercial Mobile Radio Service providers.

**PUBLIC DOCUMENT -TRADE SECRET DATA EXCISED**Attachment 2**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

LeRoy Koppendraye  
Marshall Johnson  
Kenneth Nickolai  
Phyllis Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition by the Minnesota  
Independent Coalition for Suspension or Modification  
of Local Number Portability Obligations Pursuant to  
47 U.S.C. § 251(f)(2)

MPUC Docket No.: \_\_\_\_\_

**PETITION**

The following Petition is submitted by the member companies of the Minnesota Independent Coalition listed on Exhibit 1 (the "MIC" or the "Companies") to the Minnesota Public Utilities Commission (the "Commission") pursuant to 47 U.S.C. § 251(f)(2) and Minn. Rules pt. 7811.2100, to request the suspension or modification of obligations under 47 U.S.C. § 251(b)(2) to provide local number portability ("LNP") to requesting Commercial Mobile Radio Service ("CMRS") providers.

1. The legal name, address, and telephone number of the LEC and its designated contact person:

See the attached Exhibit 1.

2. The name, address, and telephone number of the attorney if the LEC will be represented by an attorney:

Charles A. Hoffman  
Maslon Edelman Borman & Brand LLP  
3300 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
(612) 672-8368 — Telephone  
(612) 642-8368 — Facsimile

3. The date of the filing, which is the date the Commission receives the LEC's filing or the date designated by the LEC, whichever is later:

May 10, 2004

4. The proposed effective date of the suspension or modification sought by the LEC:

The Companies requests that the requested suspension of obligations to provide local number portability to CMRS providers take effect as soon as possible, and no later than May 24, 2004.

5. The signature and title of the LEC officer or representative authorizing the petition:

See attached verifications.

6. A description of the obligations the LEC seeks to suspend or modify, including:

(a) specific references to the relevant provisions of section 251, subsection (b) or (c), of the act;

(b) a copy of the relevant bona fide request, if the LEC seeks to suspend or modify the application of the requirement to negotiate; and

(c) a copy of the relevant commission-approved interconnection agreement, if the LEC seeks to suspend or modify the application of any portion of Section 251, subsection (b) or (c), of the act, other than the requirement to negotiate.

The Companies are requesting suspension of certain obligations under 47 U.S.C.

§ 251(b), to "provide, to the extent technically feasible, number portability in accordance with the requirements prescribed" by the Federal Communications Commission ("FCC").

#### I. BACKGROUND

Under the FCC's Order issued on November 10, 2003,<sup>1</sup> the Companies are required, upon receiving a bona fide request ("BFR") from a CMRS provider, to make their switches capable of porting a subscriber's local telephone number to a requesting CMRS provider whose "coverage area" overlaps the geographic location of the rate center in which the customer's wireline number

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<sup>1</sup> *In re Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 03-284 (2003) (the "Intermodal Number Portability Order").

is provisioned, provided that the porting in [CMRS] carrier maintains the number's original rate center designation following the port."<sup>2</sup> The FCC further ruled in its Order that all LECs serving fewer than two percent (2%) of the nation's access lines are to implement wireless LNP by May 24, 2004, for any BFR received on or prior to November 24, 2003.<sup>3</sup> For BFRs received after November 24, 2003, these LECs will have six months following the BFR to implement wireless LNP.<sup>4</sup>

Each of the Companies serve a number of access lines well below the 2% threshold of 3.76 million access lines. **TRADE SECRET Exhibit 2** sets out the number of access lines served by each of the Companies. The substantial majority of the Companies serve rural communities.

Many of the Companies have received correspondence appearing to request wireless LNP, with an implementation date no later than May 24, 2004, from (1) Sprint PCS; (2) Western Wireless; (3) Midwest Wireless; (4) U.S. Cellular; and/or (5) Verizon Wireless. The majority of the Companies received such requests from only one (1), or at most two (2), of these CMRS providers.

The Companies are not seeking to suspend or modify any obligations arising under Section 251, with respect to any interconnection agreement, nor do they seek to suspend or modify the application of the requirement to negotiate.

7. A detailed description of the modifications or suspensions the LEC is seeking, including the proposed duration of each suspension or modification:

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<sup>2</sup> Intermodal Number Portability Order, ¶ 22.

<sup>3</sup> 47 C.F.R. § 52.23(c) (requiring LECs to "make a long-term database method for number portability available within six months after a specific request by another telecommunications carrier in areas in which that telecommunications carrier is operating or plans to operate.")

<sup>4</sup> *Id.*

The Companies request that the Commission suspend their obligation to provide wireless LNP to Sprint PCS, Western Wireless, Midwest Wireless, U.S. Cellular, Verizon Wireless, and to any additional CMRS provider which may subsequently submit a BFR for LNP to permit the completion of technical and operational modifications to network connections between the Companies and Qwest Corporation ("Qwest"), which are necessary for effective and efficient number porting to wireless carriers. This period of suspension is also needed to conclude negotiations with Qwest over the terms and conditions, including rates, for the services and facilities necessary to support wireless LNP.

The Companies have been diligently working to put in place the many facility upgrades and contractual arrangements needed to support wireless LNP. In doing so, they have also attempted to address a critical issue in wireless LNP implementation which the FCC has not yet resolved: how can calls be routed, and rated local, when the CMRS provider has no point of interconnection on the LEC's network? The FCC requires that ported numbers remain rated to their original rate center, even while the routing of calls will change when a number is ported.<sup>5</sup> However, in the absence of direct connections, very frequently the only facilities available to the rural Companies in order to route calls to numbers ported to a CMRS provider are access tandem trunk facilities.

For the substantial majority of the Companies, there are no direct connections between CMRS providers and the Companies. Rather, CMRS providers in Minnesota have interconnected their wireless networks with tandem switches owned and operated by Qwest, and route their traffic to the Companies via these connections. However, the substantial majority of the Companies have centralized equal access and therefore do not have the technical ability to

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<sup>5</sup> Intermodal Number Portability Order, ¶ 39.

route their traffic to the CMRS carriers via Qwest access tandems, because Qwest has configured the facilities as one-way terminating trunks.

The Companies have historically interconnected with Qwest toll/access tandems for the purpose of joint provisioning of toll and toll access (the "Toll Connections"). The Companies do not route originating traffic via the Toll Connections to terminate traffic to CMRS providers.

Historically, each Company has routed its originating traffic which terminates to a CMRS provider, to the Company end-user's presubscribed interexchange carrier (IXC), unless the CMRS provider has established a direct connection to the Company. However, where both the Company central office switch and the CMRS provider switch (an MTSO) subtend a Qwest EAS/local tandem switch in an Extended Area Service (EAS) area mandated by the Commission, then both have historically routed to the Qwest EAS/local tandem switch their traffic which terminates to the other's end users whose phone numbers (NPA/NXXs) are associated with the Commission-mandated EAS area (the "EAS Connections"). There has been no compensation exchanged between the Companies and Qwest for this transit function, except as may be addressed in the Commission's Order establishing the EAS area.

The Companies using centralized equal access have analyzed and investigated how calls to (local) numbers ported to CMRS providers could be routed, for those networks where there are neither direct connections nor EAS Connections, without being rated as toll calls. The Companies believe this can be accomplished efficiently and cost-effectively, if such calls are routed via the same facilities used by the CMRS providers to deliver their traffic to the Companies, and at rates comparable to TELRIC rates charged by Qwest to CMRS providers for the same service. However, these facilities are currently one-way terminating trunks which permit the CMRS providers to deliver their traffic to the Companies, but do not have the

technical capability, as configured by Qwest, to permit the Companies to similarly route traffic bound for CMRS providers via these trunks.

The Companies believe Qwest has configured its toll facilities interconnecting to LECs with non-centralized equal access end offices on a two way basis, which would permit routing to CMRS-ported numbers by those LECs. In addition, Qwest's interconnection agreements with CMRS providers typically appear to contemplate two-way traffic routing to and from the CMRS providers via the access tandem.<sup>6</sup>

The Companies contacted Qwest to request that Qwest accept traffic from the Companies for ported numbers (ported from the Companies to CMRS providers), via existing Company-Qwest trunk groups at Qwest access tandems in Minnesota. The Companies noted that the trunk groups would require both the Companies and Qwest to reconfigure the trunks to accept wireline to wireless ported traffic.

Qwest indicated that it was receptive to developing the requested method of routing CMRS provider-bound traffic from the Companies, but stated that it would not take any steps to make operational changes until the Companies and Qwest have signed agreements identifying the terms of the service. On April 30, Qwest provided the Companies with a proposed agreement, "Service Exhibit 5 EAS and Transit Services Exhibit and Rate Schedule," a copy of which is attached as Exhibit 3 to this Petition (the "Draft Agreement").

The Draft Agreement includes a charge of \$.0089 per minute of use for the "Transit Service," as compared to the substantially lower rate paid by the CMRS providers to Qwest for a virtually identical service, i.e. the aggregate TELRIC rate for transport and tandem switching of \$.00164 per minute of use. In addition, the scope of the Draft Agreement far exceeds the limited

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<sup>6</sup> See, for example: *Amendment to the Interconnection Agreement between Qwest Wireless L.L.C. and Qwest Corporation for the State of Minnesota*, dated 3/6/02.



issue the Companies asked Qwest to address. The Companies sought only a transit function via Qwest access tandems for the routing of traffic to CMRS providers subtending the tandems. Instead, the Draft Agreement seeks to impose charges (at the inflated rate) on all third-party transit traffic routed to Qwest tandems.

The Draft Agreement further contemplates that the Companies and Qwest each also enter into an underlying "Infrastructure Sharing Master Services Agreement" (to which the Draft Agreement is Exhibit 5).

The Companies have responded to Qwest's proposal and intend to pursue resolution of the outstanding issues at the earliest possible date.

## II. COMPANIES REQUEST

The Companies request suspension of their WLNP obligations, in order to complete (1) negotiations with Qwest regarding the Draft Agreement (and the underlying Infrastructure Sharing Master Services Agreement, as appropriate), and (2) any operational changes necessary to implement WLNP in the manner contemplated.

In order to expedite resolution and wireless LNP implementation, the Companies further request that the Commission order Qwest, on an expedited basis, to (1) limit the scope of the negotiations on the Draft Agreement to the CMRS -routed transit function requested by the Companies; and (2) negotiate rates in good faith, on a non-discriminatory basis.

The Companies anticipate that, if the scope of negotiations are narrowed as requested and proceed on the basis of non-discriminatory rates, these matters could be completed by July 30, 2004. This is an extension of 67 days from the May 24 WLNP implementation date. The Companies would further keep the Commission advised as to the status of these negotiations. If

negotiations are unsuccessful, mediation pursuant to Minn. Rule 7811.1600 may be appropriately ordered.

The Companies wrote to the CMRS providers which requested WLNP implementation by that date (each served with this Petition) asking that they consent to this short delay. Copies of the letters sent to each of the CMRS providers are attached as Exhibit 4. Each of the CMRS providers refused such consent.

8. The number of subscriber lines the LEC has nationwide, at the holding company level, and the LEC's estimate of the total number of all LEC subscriber lines nationwide:

See the attached **TRADE SECRET** Exhibit 2 for the number of subscriber lines served by each Company.

As of December 2002, approximately 188 million local telephone lines were in service nationwide.<sup>7</sup> Each of the Companies provides service to access lines which are well below the 2% threshold of 3.76 million access lines and is therefore eligible to seek relief under Section 251(f)(2) from obligations imposed under 47 U.S.C. § 251(b) and (c).

9. A statement supporting the petition, which must specify why each requested modification or suspension meets the conditions for modification or suspension specified in section 251, subsection (f), paragraph (2), subparagraphs (A) and (B), of the act, and applicable FCC regulations:

47 U.S.C. § 251(f)(2) requires a state public utility commission to suspend or modify obligations under Section 251(b) or (c) of the Act, as applied to any local exchange carrier "with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide," where the state commission determines that "such suspension or modification –

(A) is necessary –

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

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<sup>7</sup> See "Federal Communications Commission Releases Study on Telephone Trends," FCC News Release (rel. Aug. 7, 2003).

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible;  
and

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

Under this provision, a state commission must grant an eligible LEC relief from obligations imposed under Section 251(b) and (c) to the extent that the suspension or modification serves the public interest and is necessary (1) to avoid an adverse economic impact on the LEC's subscribers *or* (2) to avoid an unduly burdensome economic requirement on the LEC *or* (3) to avoid a technically infeasible requirement. A petitioning LEC need only show that *one* of these elements applies to its circumstances. Each of the Companies meets this criteria, and granting the requested temporary suspension is consistent with the public interest.

### III. ECONOMIC BURDENS AND TECHNICAL HURDLES.

The Companies have acted reasonably and consistent with the public interest in connection with wireless LNP. Numerous petitions requesting clarification of LNP obligations were (and some still are) pending before the FCC, generating a considerable degree of uncertainty and confusion about requirements for intermodal LNP (wireline to wireless) throughout the industry. It was only with the FCC's November 10, 2003, Intermodal Number Portability Order that a level of certainty arrived to define wireline carriers' obligations to implement wireless LNP.

However, even the Intermodal Number Portability Order left unresolved issues which are critically important, both economically and technically, to rural LECs such as the Companies. The Companies have sought to develop a way of routing calls to CMRS-ported numbers which is technically sound, efficient and not unduly economically burdensome. However, the technical constraints imposed by Qwest on the centralized equal access Companies, combined with

Qwest's unexpectedly broad and discriminatory proposed terms, preclude the Companies from implementing wireless LNP by May 24.

As noted above, the FCC has left unresolved the issue of which carrier will bear the costs of transport when the routing point for the CMRS provider's switch is located outside the LEC's local calling area in which the number is rated.<sup>8</sup> The Companies could not reasonably be expected to pursue installation of direct trunks to the CMRS providers as the method of traffic routing, when facility costs are so high and it is unknown who will bear the costs. Rather, the Companies have focused on the eminently reasonable solution of making use of the very same facilities used by the CMRS providers to deliver traffic to the Companies. The Companies are simply requesting a short, additional period of time in which to put this solution in place.

The short duration of the requested suspension is particularly reasonable, and in the public interest, when considered in the context of how few porting requests are likely to be delayed. Very few of the Companies' subscribers can reasonably be expected to avail themselves of wireless LNP and port their local wireline numbers to a CMRS provider. The Companies have received, even collectively, very few general or specific inquiries from customers relating to wireless LNP.

On a national level, analysts expect anywhere between 2 and 6 million people – between 1.06% and 3.2% of wireline subscribers nationwide – to replace their telephones with wireless telephones in the *next few years*. Thus, only a very small, insignificant number of the Companies' customers, even in aggregate, can be expected to request to switch to wireless service in the requested period of delay.

Accordingly, the broader public interest will be served by temporarily suspending the Companies' wireless LNP obligations in Minnesota, as requested in this Petition.

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<sup>8</sup> Intermodal Number Portability Order, fn. 75 and ¶¶ 39-40.

10. A statement as to whether the LEC requests the commission to grant a temporary stay under subpart 9 of the obligations the LEC seeks to modify or suspend:

The Companies request that the Commission grant a temporary stay, if this Petition is not finally granted by the Commission before May 24, 2004.

47 U.S.C. § 251(f)(2) and Minn. Rule 7811.2100, subp. 11, require the Commission to act on this Petition within 180 days. Pending such action, the Commission "may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers."<sup>9</sup> The FCC has stated that if State commissions exercise this authority, "eligible LECs will have sufficient time to obtain any appropriate Section 251(f)(2) relief as provided by the statute, especially since the state commission can suspend the application of our deployment deadlines to that LEC while it is considering the LEC's petition for suspension or modification of our requirements."<sup>10</sup>

Minn. Rule 7811.2100, subp. 9, permits the grant of a temporary stay:

if, based on the standards applied by Minnesota courts for granting temporary injunctions, the Commission determines that a suspension would be appropriate.

Under Minnesota law, in determining whether to grant or deny request for injunctive relief, a court considers the following factors: (1) the parties' relationship prior to the dispute; (2) the weight of the irreparable harm alleged by the party seeking the injunction compared to the weight of the harm suffered by the other party if the injunction is granted; (3) the likelihood that the party seeking the injunction will prevail on the merits; (4) public policy considerations; and (5) the administrative burden on the court. City of Mounds View v. Metropolitan Airports Commission, 590 N.W.2d 355 (Minn.App.1999).

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<sup>9</sup> 47 U.S.C. § 251(f)(2).

<sup>10</sup> *In re Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, FCC 97-74 (1997), at ¶ 115.

The Companies are entitled to temporary stay of their wireless LNP obligations under this standard. It is virtually impossible for the Companies to meet a provisioning date of May 24, due to the time needed to complete its negotiations with Qwest, and for both Qwest and the Companies to make necessary operational changes.

Public policy will be served by permitting the temporary stay of enforcement, while this Petition is pending. Temporary stay would allow the Commission to engage in a rational analysis of the request, while avoiding the need for the Companies to expend scarce and valuable resources while potentially risking the integrity of high-quality network operations and service to customers.

11. A statement of when and how to challenge the form or completeness of the petition, file initial and reply comments, and petition to intervene, pursuant to subparts 3 to 7:

Pursuant to Minn. Rule 7811.2100, subp. 3, a challenge to the form or completeness of this Petition must be received by the Commission and served on the Companies within ten (10) days after the Companies' Petition was filed. The Companies are required to reply to the challenge within five (5) days of the date it receives the filing challenging the Petition. Initial Comments on the Petition must be filed with the Commission within twenty (20) days after the Petition was filed, and must include a recommendation on the type of proceeding the Commission applies to the Petition and reasons for the recommendation. Reply Comments must be filed with the Commission within ten (10) days after the deadline for filing Initial Comments, identified above. Reply Comments must be limited in scope to the issues raised in the Initial Comments. Petitions to Intervene must be filed by the deadline for Reply Comments. An Intervention Petition may be combined with Initial Comments or Reply Comments.

**CONCLUSION:**

The Companies request suspension of their WLNP obligations, in order to complete (1) negotiations with Qwest regarding the Draft Agreement (and the underlying Infrastructure Sharing Master Services Agreement, as appropriate), and (2) necessary operational changes to implement WLNP in the manner contemplated. The Companies further request that the Commission order Qwest, on an expedited basis, to (1) limit the scope of the negotiations on the Draft Agreement to the CMRS -routed transit function requested by the Companies; and (2) negotiate rates in good faith, on a non-discriminatory basis.

Dated: May 10, 2004

Respectfully submitted,

By: 

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Attorneys on Behalf of the Minnesota Independent  
Coalition

Attachment 3

## AFFIDAVIT OF SERVICE

STATE OF MINNESOTA )  
 )  
 COUNTY OF HENNEPIN )

In Re: In the Matter of the Petition by the Minnesota  
 Independent Coalition for Suspension  
 or Modification of Local Number Portability  
 Obligations Pursuant to 47 U.S.C. § 251(f)(2)

MPUC Docket No.: \_\_\_\_\_

Barbara A. Cady, being first duly sworn on oath, deposes and states that on the 10th day of May, 2004, copies of the Original Filing, Filing Summary, and Petition were hand delivered or mailed by United States first class mail, postage prepaid thereon, to the following:

Dr. Burl W. Haar  
 Executive Secretary  
 Minnesota Public Utilities Commission  
 121 Seventh Place East, Suite 350  
 St. Paul, MN 55101

Linda Chavez  
 Minnesota Department of Commerce  
 85 Seventh Place East, Suite 500  
 St. Paul, MN 55101

Curt Nelson  
 Assistant Attorney General  
 900 NCL Tower  
 445 Minnesota Street  
 St. Paul, MN 55101

Julia Anderson  
 Assistant Attorney General  
 1400 NCL Tower  
 445 Minnesota Street  
 St. Paul, MN 55101

Sprint Spectrum PCS  
 Attention: Scott Freiermuth  
 6450 Sprint Parkway  
 Mailstop KSOPHN0212  
 Overland Park, KS 66251

Sprint Spectrum PCS  
 Attention: Jack Weyforth  
 6450 Sprint Parkway  
 Mailstop KSOPHN0212-2A411  
 Overland Park, KS 66251

Midwest Wireless  
 Attention: Scott J. Bergs  
 2000 Technology Drive  
 PO Box 4069  
 Mankato, MN 56002-4069

Sprint Spectrum PCS  
 Attention: Jeff Adrian  
 6580 Sprint Parkway  
 Mailstop: KAOPHW0516-5B360  
 Overland Park, KS 66251



Western Wireless Corporation  
Attention: Ron Williams  
3650 131st Ave. SE Suite 400  
Bellevue, WA 98006

US Cellular  
Lisa Paarfusser  
8410 W. Bryn Mawr Avenue #700  
Chicago, IL 60631

Verizon Wireless  
Linda Godfrey  
2785 Mitchell Drive  
Building 7-1, 7111G  
Walnut Creek, CA 94598

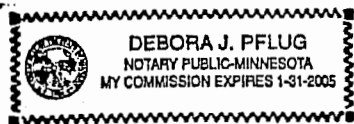
Jason Topp  
Qwest Corporation  
200 S. 5<sup>th</sup> Street, Ste. 395  
Minneapolis, MN 55402

Verizon Wireless  
Dennis L. Myers  
Vice President and General Counsel Midwest Area  
1515 Woodfield Road  
Schaumburg, IL 60173

Barbara C. Cady

SWORN TO BEFORE ME this  
10th day of May, 2004

Deborah J. Pflug  
NOTARY PUBLIC



May-03-04 10:56am From:MOSS &amp; BARNETT

+4900

T-673 P.08/17 F-996

## MN LECs Subtending Qwest Tandems

The following LECs have end offices which subtend the Qwest access tandem, but have one-way terminating trunks. LEC is working with Qwest to reconfigure these one-way groups as two-way groups to permit delivery of LEC WLNP ported traffic.

OCN	Name	OCN	Name
1345	ACE TELEPHONE ASSOCIATION - MINNESOTA	1423	LOWRY TELEPHONE CO.
1347	ALBANY MUTUAL TELEPHONE ASSOCIATION, INC.	1421	MABEL COOPERATIVE TELEPHONE CO. - MINNESOTA
1350	ARVIG TELEPHONE CO.	1425	CHRISTENSEN COMMUNICATIONS CO DBA MADELIA TEL CO.
1353	CITY OF BARNESVILLE TELEPHONE UTILITY	1428	MANCHESTER - HARTLAND TELEPHONE CO.
1356	BENTON COOPERATIVE TELEPHONE CO.	1430	MELROSE TELEPHONE CO.
1357	BLACKDUCK TELEPHONE CO.	1433	MID-STATE TELEPHONE CO.
1358	BLUE EARTH VALLEY TELEPHONE CO.	1431	MIDWEST TELEPHONE CO.
1362	BRIDGE WATER TELEPHONE CO.	1437	MINNESOTA LAKE TELEPHONE CO.
1365	CALLAWAY TELEPHONE EXCHANGE	1438	MINNESOTA VALLEY TELEPHONE CO., INC.
1440	CANNON VALLEY TELECOM, INC.	1442	NEW ULM TELECOM, INC.
1370	CLARA CITY TELEPHONE EXCHANGE CO.	1500	NORTHERN TELEPHONE CO. OF MINNESOTA
1373	CONSOLIDATED TELEPHONE CO.	1448	OSAKIS TELEPHONE CO.
1489	CROSSLAKE TELEPHONE CO.	1450	PARK REGION MUTUAL TELEPHONE CO.
1380	DEHAVAN TELEPHONE CO.	1451	PAUL BUNYAN RURAL TELEPHONE COOPERATIVE
1381	DUNNELL TELEPHONE CO., INC.	1453	PEOPLES TELEPHONE CO. MN
1383	EAGLE VALLEY TELEPHONE CO.	1454	PINE ISLAND TELEPHONE CO.
1385	EAST OTTER TAIL TELEPHONE CO.	4300	RED RIVER RURAL TEL ASSN. - MN
1384	EASTON TELEPHONE CO.	1474	ROTHSAY TELEPHONE CO., INC.
1386	ECKLES TELEPHONE CO.	1475	RUNESTONE TELEPHONE ASSOCIATION
1387	EMILY COOPERATIVE TELEPHONE CO.	1476	SACRED HEART TELEPHONE CO
1388	FARMERS MUTUAL TELEPHONE CO.	1479	SCOTT RICE TEL CO. DBA INTEGRA TELECOM
1390	FEDERATED TELEPHONE COOPERATIVE	1482	SHERBURNE COUNTY RURAL TELEPHONE CO.
1403	FEDERATED UTILITIES, INC.	1577	SIOUX VALLEY TELEPHONE CO
1391	FELTON TELEPHONE CO., INC.	1483	SLEEPY EYE TELEPHONE CO.
1395	GARDEN VALLEY TELEPHONE CO.	1485	SPRING GROVE COOPERATIVE TELEPHONE CO.
1396	GARDONVILLE COOPERATIVE TELEPHONE ASSN.	1487	STARBUCK TELEPHONE CO.
1401	HALSTAD TELEPHONE CO.	1491	TWIN VALLEY - ULEN TELEPHONE CO., INC.
1404	HARMONY TELEPHONE CO.	1494	UPSALA COOPERATIVE TELEPHONE ASSOCIATION
1406	HILLS TELEPHONE CO., INC. - MINNESOTA	1495	VALLEY TELEPHONE CO.
1408	HOME TELEPHONE CO.	1501	WEST CENTRAL TELEPHONE ASSOCIATION
1409	HUTCHINSON TELEPHONE CO.	1502	WESTERN TELEPHONE CO.
1554	INTERSTATE TELECOM. COOP. INC. - MINNESOTA	1505	WIKSTROM TELEPHONE CO., INC.
1410	JOHNSON TELEPHONE CO.	1338	WINNEBAGO COOP. TELEPHONE ASSN. - MINNESOTA
1412	KASSON & MANTORVILLE TELEPHONE CO.	1507	WINSTED TELEPHONE CO.
1414	LAKEDALE TELEPHONE CO.	1508	WINTHROP TELEPHONE CO.
1419	LISMORE COOPERATIVE TELEPHONE CO.	1512	WOLVERTON TELEPHONE CO. - MN
1422	LONSDALE TELEPHONE CO., INC.	1510	WOODSTOCK TELEPHONE CO.
1443	LORETEL SYSTEMS, INC.	1515	ZUMBROTA TELEPHONE CO.

**DRAFT  
SERVICE EXHIBIT 5  
EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**1.0 EAS AND TRANSIT SERVICES MINIMUM SERVICE TERM.**

The term of this Service Exhibit 5 shall commence upon the Effective Date of the Agreement (or an amendment hereto, as applicable) and remain in effect for the same period listed in Section 7 of the Qwest Infrastructure Sharing Master Services Agreement. Both parties shall provide the EAS and Transit Services, as further described herein, according to the terms and conditions of this Service Exhibit and the Master Services Agreement.

**OTHER TYPES OF INTERCONNECTION AND SERVICES EXCLUDED.** Nothing in this Agreement will be construed as granting to either party any collocation arrangements through either physical or virtual collocation ("Collocation"), any access to any unbundled network elements ("Unbundled Access"), or access to operational support systems ("OSS Access"), and nothing herein will be construed as waiving or limiting in any way any rights available to either party under the Act with respect to Collocation, Unbundled Access, OSS Access, or other matters, including, but not limited to, ancillary services such as signaling access to call-related databases, directory assistance, white pages directory listings, busy line verify/interrupt, toll and assistance operator services, LIDB, access to poles/ducts/conduits, rights-of-way, 800 and CMDS. The parties reserve the right to negotiate such matters in separate agreements.

This EAS and Transit Services Exhibit is intended solely for the use of ILEC for its operations which are the subject of the Agreement, including the certification that ILEC is a "qualifying carrier" as defined by 47 U.S.C. §259. As such, this Exhibit applies solely to the uses discussed herein, and use of the services in a manner contrary to the restrictions of use in Section 2.0 shall be a material breach of the Exhibit and the Agreement.

Either Party may terminate this EAS and Transit Services Exhibit upon 90 day written notice to the other Party. Upon termination Parties agree that EAS and Transit Services between Parties will be terminated.

**2.0 EAS SERVICES.**

The Parties are incumbent local exchange carriers operating in certain respective communities which are located in adjacent, but not overlapping territories; the Parties do not compete against each other as local exchange carriers in those communities (collectively, the "Communities"), and the Parties are now or have been ordered by the "Insert State" Commission (the "Commission") [compelled by the public interest requirements of the Communities and the demands of their respective customers] to provide Extended Area Service between certain Exchanges of Exchange Carrier and certain Exchanges of QWEST; NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

The Parties agree to connect their respective networks at mutually agreed upon points so as to furnish Extended Area Service between those Exchanges of Exchange Carrier and those Exchanges of QWEST stated in the Qwest state Exchange and Network Services Tariff, Section 5.1.1. The Parties believe that the traffic exchanged between QWEST and Exchange Carrier will be generally in balance, because they serve the same type of customer base.

Subject to the provisions set forth below, neither Party will charge the other for the transport and termination of EAS Traffic that originated from the end user customers of one Party and terminates to the end user customers of the other Party.

The arrangements that are the subject of this EAS portion of this Exhibit will not be applicable to Exchange Access Service traffic, Telephone Toll Service traffic or to local Traffic not originated by or terminated to the parties in this agreement, e.g., FGA, Wireless, CLEC, and other ILECs. All Exchange Access Service, Telephone Toll Service traffic and local Traffic not originated by or terminated to the parties in the EAS portion of this Exhibit will continue to be governed by the terms and conditions of applicable federal and state tariffs and/or any applicable contractual arrangements made in this Exhibit for transit services.

This Agreement cancels and supersedes all previous settlement and/or compensation terms and rates between the Parties or their respective predecessors relating to the termination of EAS traffic in and/or between the Exchanges set forth in the Qwest state Exchange and Network Services Tariff, Section 5.1.1.

**3.0 TRANSIT SERVICES.**

Transit Service will be provided at each Party's local and access tandem switches, end offices providing local tandem functionality and end offices providing routing due to an unqueried call ported to another local services provider.

The Party originating the traffic acknowledges that it is its responsibility to enter into arrangements with each third party LEC, ILEC, CLEC, Co-Provider or CMRS for the exchange of transit traffic from such originating party and for the billing to the originating carrier for such exchange.

Each Party originating transit traffic acknowledges that the other Party has no responsibility to pay any third party LEC, ILEC, CLEC, Co-Provider or CMRS charges for termination of any transit traffic from such originating Party. Neither Party

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will default bill the other Party for unidentified traffic that neither Party can identify, which terminates on their respective networks, unless otherwise provided for in this Agreement. In the event that one Party can identify the traffic, and the other Party requests the transit records, the Parties will negotiate a separate agreement for the provision of those transit records.

Parties will not pay switched access on local calls in either direction between Parties and any third party LEC, ILEC, CLEC, Co-Provider or CMRS when local calls are routed through an access tandem.

#### **4.0 NETWORK RESPONSIBILITIES**

##### **PHYSICAL INTERCONNECTION**

The Parties have interconnected their facilities at the agreed upon meet points within the Exchanges listed and described in the Qwest state Exchange and Network Services Tariff, Section 5.1.1. The Parties agree that meet points within the exchanges listed and described in the Qwest state Exchange and Network Services Tariff, Section 5.1.1 will be limited to the pre-existing meet points within those exchanges. Should either Party request change of existing or add new meet points these meet points will be mutually agreed upon by both Parties. Pre-existing physical interconnection arrangements will remain in place until such time as the Parties mutually agree to convert such physical interconnection arrangements to a type of arrangement other than a meet point. The Qwest state Exchange and Network Services Tariff, Section 5.1.1 may be updated from time to time as additional EAS is ordered by the Commission. The parties intend that, to the greatest extent practicable, all terms, conditions, agreements and arrangements relating to existing physical interconnection, operation, maintenance, methods, practices and provisioning will remain in full force and effect unless and until otherwise agreed to by the Parties.

The Parties will jointly engineer and configure local trunks over the physical interconnection facilities as follows:

Each Party will initially configure a two (2) way trunk group as a direct transmission path between the two Parties.

If the traffic volumes between any two (2) end office switches including other ILEC, CLEC and CMRS switches, at anytime exceeds the centum call second ("CCS") busy hour equivalent of one (1) DS1 (512 CCS), the Parties will, within sixty (60) days of such occurrence, establish a new direct trunk group to the applicable end office(s) consistent with the grades of service and quality parameters set forth in this Exhibit.

Only those valid NXX codes served by an end office may be accessed through a direct connection to that end office.

Each Party will ensure that each tandem connection permits the completion of all traffic to all end offices, which sub-tend that tandem switch.

The provision of additional trunks, if necessary for EAS expansion of EAS voice, will be subject to negotiation between the Parties.

It shall be the responsibility of each Party to program and update its own Switches and network systems pursuant to the Local Exchange Routing Guide (LERG) to recognize and route traffic to the other Party's assigned NXX or NXX-X codes. Neither Party shall impose any fees or charges on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.

Each Party is responsible for administering numbering resources assigned to it. Each Party will cooperate to timely rectify inaccuracies in its LERG data. Each Party is responsible for updating the LERG data for NXX codes assigned to its End Office Switches. Each Party shall use the LERG published by Telcordia or its successor for obtaining routing information and shall provide through an authorized LERG input agent, all required information regarding its network for maintaining the LERG in a timely manner.

Both Parties agree that their network switches involved in the provision of EAS service will be managed in accordance with the applicable Telcordia and other industry standards. The acceptable service levels for local interconnection service and the criteria for applying protective controls in conjunction with EAS service will be administered in the same manner as the network management for Exchange Access Services.

To the extent available, the parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in applicable industry standards including ISDN user part ("ISUP") for trunk signaling and transaction capabilities application part ("TCAP") for common channel signaling based features in the interconnection of their networks.

Each Party will be responsible only for service(s) and facility or facilities which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party will bear any responsibility for the services and facilities provided by the other Party, its agents, subcontractors, or others retained by such Party.

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**5.0 OBLIGATIONS OF BOTH PARTIES.**

Parties will provide and maintain the equipment and facilities necessary to permit each other to furnish the services for which the Parties contract.

Parties will provision appropriate trunking to access tandems, local tandems and/or end offices with local tandem functionality, this includes but not limited to provisioning trunking with appropriate traffic use codes.

Parties shall have no obligation to supply a Service where facilities or technical abilities are limited.

Parties will perform Services provided under this Agreement in accordance with operating methods, practices, and standards in effect for each other's End Users.

Parties shall maintain adequate equipment and personnel to reasonably perform the Services. Parties shall connect their End Users to the place(s) where each Party provides the Services and to provide all information and data needed or reasonably requested by each other in order to perform the Services.

**6.0 CHARGES AND PAYMENTS FOR TRANSIT SERVICES.**

The charge for the Transit Services provided by each Party under this Service Exhibit is reciprocal and listed in Schedule A, attached hereto and incorporated herein by reference.

The charges listed in Schedule A shall be subject to adjustment upon sixty (60) days prior written notice by either Party and shall remain reciprocal.

Parties shall be obligated to pay all applicable charges as set forth herein for Transit Services provided by the other Party.

Transit Provider will track usage and bill the originator of the traffic, and the originator of the traffic shall be responsible for and will pay the Transit Provider for all Rates and charges applicable to the calls placed to third party's end users.

Until such time that Qwest has the ability to record the originating traffic, the Parties agree to implement the interim transit charge provisions on Schedule B. When Qwest has actual recordings of originating transit usage available, Qwest will bill transit charges based on Qwest's recording of transit traffic usage.

A completed call shall be computed, calculated and recorded in accordance with the methods and practices of Transit Provider and the operating capacity and ability of Transit Provider's measuring equipment.

The originator of the traffic will pay the Transit Provider for transit traffic at the reciprocal rates specified in Schedule A. It is the responsibility of the originator of the traffic to provide billing information to the third party assuming that recording capabilities exist to obtain that measured data.

If, due to equipment malfunction or other error, Transit Provider does not have available the necessary information to compile an accurate billing statement, Transit Provider may render a reasonably estimated statement, but shall notify originator of the traffic of the methods of such estimate and cooperate in good faith with originator of the traffic to establish a fair, equitable estimate. Transit Provider shall render a statement reflecting actual billable quantities when and if the information necessary for the billing statement becomes available.

Each Party alone and independently establishes all prices it charges its End Users for Services provided by means of this Agreement, and the other Party is not liable or responsible for the collection of any such amounts.

**7.0 DEFINITIONS.**

"Access Services" refers to the tariffed interstate and intrastate switched access and private line transport services offered for the origination and/or termination of interexchange traffic.

"Act", as used in this Exhibit, means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.

"Ancillary Traffic", includes all traffic destined for ancillary services, or that may have special billing requirements, including but not limited to the following: Directory assistance, 911/E911, Operator call termination (busy line interrupt and verify), 800/888, LIDB, and Information services requiring special billing.

"Commission", as used in this Exhibit, means the "Insert State" Public Utility Commission of the State of "Insert State".

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"Co-Provider" means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent Local Exchange Carrier ("LEC"). "Exchanges", as used in this Agreement, will mean the local telephone exchanges listed in the Qwest state Exchange and Network Services Tariff, Section 5.1.1.

"Extended Area Service" ("EAS"), as used in this Exhibit, means an arrangement for the mutual, reciprocal transport and termination of EAS Traffic between Parties who are not competing with each other, at rates and charges between the Parties established in this Agreement. Calls may be placed between two Exchanges without a Telephone Toll Service charge, to the customers of the Parties.

"Extended Area Service (EAS) Traffic" means traffic (excluding CLEC and CMRS traffic, and information service provider and voice over IP, e.g., competitive local traffic, paging, cellular, PCS) that is originated by an end user of one Party and terminates to an end user of the other Party as defined in accordance with Qwest's then current EAS serving areas, as determined by the Commission.

"Incumbent Local Exchange Carrier" (ILEC), as used in this Exhibit, means with respect to an area, the LEC that: (1) on February 8, 1996, provided Telephone Exchange Service in such area; and (2) (i) on February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to § 69.601 (b) of the FCC's regulations; or (ii) is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in clause (i) of this paragraph.

"Local Exchange Carrier" (LEC), as used in this Exhibit, means any person that is engaged in the provision of Telephone Exchange Service or Exchange Access Service.

"Telephone Toll Service", as used in this Exhibit, means a type of telecommunication service, commonly known as long-distance service, that is provided on an intrastate or interstate basis between LATAs and within LATAs and that is: (A) not included as a part of basic local exchange service; (B) provided between different exchange areas, and (C) billed to the customer separately from basic local exchange service.

"Termination", as used in this Exhibit, means the switching of EAS Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

"Transport", as used in this Exhibit, means the transmission and any necessary tandem switching of EAS Traffic from the interconnection point, or meet point, between the Parties to the terminating carrier's end office switch that directly serves the called party.

"Transit Provider", as used in this Exhibit means the Party that is providing the Transit Service.

"Transit Service" as used in this Exhibit is Transit traffic which is any traffic that originates from one (1) Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network. For purposes of the Agreement, transit traffic does not include traffic carried by Interexchange Carriers or traffic originated by Qwest when acting as a toll provider. Interexchange Carriers' traffic is defined as Jointly Provided Switched Access. Transit service is provided by Qwest at local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider, to ILEC to enable the completion of calls originated by or terminated to another Telecommunications Carrier (such as a CLEC, an ILEC, an exiting LEC, a co-provider, or a wireless Carrier), which is connected to Qwest's local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider. To the extent that ILEC's Switch functions as a local or Access Tandem Switch, ILEC may also provide transit service to Qwest.

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**SCHEDULE A  
QWEST TRANSIT CHARGE**

TRANSIT RATE	\$ .0089 Per MOU
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**Schedule B  
Interim Transit Charge  
MINNESOTA**

Since Qwest currently does not have the recording capability to record ILEC originated traffic transiting through Qwest's network to a third party, Qwest will bill ILEC based on that ILEC's actual transit minutes provided by the originating ILEC to Qwest on a monthly basis. Data is subject to audit by Qwest no more than twice per year. These MOU will then be multiplied by the transit rate shown on Schedule A. Each month Qwest will bill this amount to the ILEC. If the originating ILEC doesn't provide Qwest with data to bill, Qwest will bill a minimum charge of \$300 per month per ILEC in the rural area and a minimum charge of \$6,000 per month per ILEC in the metro area. This interim method will be utilized until Qwest has actual originating transit routed traffic measurements available.





November 18, 2003

Swiftel Communications  
Brookings Municipal Utilities  
Craig Osvog  
415 4<sup>th</sup> St  
Brookings, SD 57006

Subject: Bona Fide Request for Local Number Portability

Dear Mr. Osvog:

To ensure the availability of Local Number Portability (LNP) for marketplace competition, the FCC has required carriers to make a specific request for the implementation of LNP. The purpose of this letter is to request provisioning of Local Number Portability (LNP) in areas where Western Wireless (dba CellularOne®) is licensed to do business.

Western Wireless Corporation, on behalf of its subsidiaries and affiliates ("Western Wireless"), hereby submits the enclosed Bona Fide Request ("BFR") to Swiftel Communications - Brookings Municipal Utilities ("Swiftel") that it be prepared, no later than May 24, 2004, to support Local Number Portability ("LNP") between Western Wireless and Swiftel in all its switching centers.

The enclosed form identifies the areas where any serving switches must be opened for porting by May 24, 2004. Please carefully review this form, validate Swiftel is responsible for the identified switches, and confirm the date by which these switches will be LNP capable.

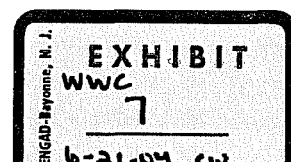
Also, please confirm the receipt of this request within 10 days.

If there are any questions or concerns, please contact me via email at [ron.williams@wwireless.com](mailto:ron.williams@wwireless.com) or via phone at (425) 586-8360.

Sincerely,

Ron Williams  
Director - InterCarrier Relations

Enclosure



## Bonafide Request Form (BFR) for Local Number Portability (LNP)

**Purpose:** This form is used to request deployment of long-term Local Number Portability as defined in the FCC mandates (CC Docket 95-116). Specifically, this form requests that ALL codes be opened for portability within the wireline and/or wireless switch CLLI codes designated below.

### TO (RECIPIENT):

**Company Name:** Swiftel Communications -  
Brookings Municipal Utilities  
**Contact Name:** Craig Osvog  
**Contact's Address:** 415 4th St  
Brookings, SD 57006  
**Contact's Email:**  
**Contact's Fax:**  
**Contact's Phone:** 605-692-6211

### FROM (REQUESTOR):

**Company Name:** Western Wireless Corporation  
**Contact Name:** Ron Williams  
**Contact's Address:** 3650 131st Ave. S.E. Suite 400  
Bellevue, Washington 98006  
**Contact's Email:** [ron.williams@wwireless.com](mailto:ron.williams@wwireless.com)  
**Contact's Fax:** 425 586-8118  
**Contact's Phone:** 425 586-8360

### TIMING:

**Date of Request:** November 18, 2003  
**Receipt Confirmation Due By:** December 2, 2003 (Due no later than 10 days after the Date of Request)  
**Effective Date:** May 24, 2004

### Designated Metropolitan Statistical Areas (MSAs):

Note: MSAs and RSAs refer to the U.S. Census Bureau designations. These may differ from the MSAs as separately defined by the wireless or wireline industries.

**MSA/RSA NAME:** RSA 641 - South Dakota 8 - Kingsbury RSA

**Switch CLLI Codes:** OCN 1650  
BROOKINGS BKNQSDXC69G  
BROOKINGS BKNQSDXERS3

### Actions Required of the Recipient:

1. Within 10 days of receipt, provide confirmation to the requestor that this form has been received.
2. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs or wireline switch CLLI codes (where applicable), open all for porting within the LERG.
3. For all currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open all for porting within the NPAC (Number Portability Administration Center).
4. Ensure that all switches handling codes within the designated MSAs are Local Number Portability capable.



Western Wireless®

December 19, 2003

Jerry Reisenauer  
West River Telephone Cooperative Company  
801 Coleman Ave  
Bison, SD 57620

Subject: Number Portability Operations Agreement

Dear Mr. Reisenauer:

Western Wireless has received your confirmation of our Bona Fide Request ("BFR") for Local Number Portability ("LNP") issued to West River Telephone Cooperative Company. We appreciate your prompt response and look forward to working with you to insure successful implementation of number portability in your service area.

Attached hereto is a proposed *Local Number Portability Operations Agreement* to govern the porting of telephone numbers between our networks. The agreement is intended to establish a reasonable process and set of standards for local number portability. While such an agreement is not required to implement porting, Western Wireless believes that such an agreement will ensure a more efficient and effective means for both parties to meet their obligations associated with number portability.

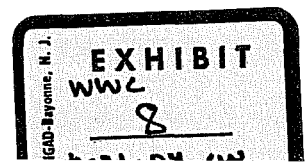
Upon your review of this proposed agreement, please contact me at your earliest convenience so that we can discuss the terms of the agreement and make arrangements on how best to proceed with negotiations. At a minimum, I would like to coordinate with you on a monthly basis on the status of this agreement and the implementation of number portability. Please acknowledge receipt of this agreement and let me know the date and time within the next month that we can discuss further.

I can be reached by phone at 425-586-8633, by facsimile at 425-586-8118, or via email at [mike.wilson@wwireless.com](mailto:mike.wilson@wwireless.com).

Sincerely,

Mike Wilson  
Manager – Regulatory Compliance

Enclosure



CONFIDENTIAL

# 3

TC04-025

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# NECA Model End User Charge Rate Development

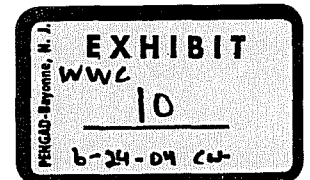
## Brookings - Swiftel

		Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
	<b><u>Investment</u></b>						
1	LNP End User Investment	\$ 291,400	\$ -	\$ -	\$ -	\$ -	\$ -
2	Present Value Factors	1.0000	0.8680	0.7534	0.6539	0.5676	0.4927
3	Present Value of Investment	\$ 291,400	\$ -	\$ -	\$ -	\$ -	\$ -
4	Sum of Present Value of Investment	\$ <b>291,400</b>					

	<b><u>Expenses</u></b>						
\$ 5	LNP End User Expenses	\$	5,419	\$ 5,419	\$ 5,419	\$ 5,419	\$ 5,419
6	Present Value of Expenses	\$ -	\$ 4,704	\$ 4,083	\$ 3,543	\$ 3,076	\$ 2,670
7	Sum of Present Value of Expenses	\$ <b>18,076</b>					

	<b><u>Access Lines</u></b>						
8	PBX		0	0	0	0	0
9	ISDN-PRI		0	0	0	0	0
10	Other		13,321	12,825	12,329	11,833	11,337
11	Total Chargeable Lines		13,321	12,825	12,329	11,833	11,337
12	Present Value of Chargeable Lines		11,563	9,662	8,062	6,716	5,586
13	Sum of Present Value of Chargeable Lines	<b>41,589</b>					

14	LNP End User Basic Charge	\$ <b>0.62</b>
15	LNP End User PRI-ISDN Charge	\$ <b>3.10</b>
16	LNP End User PBX Charge	\$ <b>5.58</b>



# NECA Model End User Charge Rate Development

## Interstate

		Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
	<b><u>Investment</u></b>						
1	LNP End User Investment	\$ 181,264	\$ -	\$ -	\$ -	\$ -	\$ -
2	Present Value Factors	1.0000	0.8680	0.7534	0.6539	0.5676	0.4927
3	Present Value of Investment	\$ 181,264	\$ -	\$ -	\$ -	\$ -	\$ -
4	Sum of Present Value of Investment	\$ <b>181,264</b>					

	<b><u>Expenses</u></b>						
5	LNP End User Expenses		\$ 2,228	\$ 2,228	\$ 2,228	\$ 2,228	\$ 2,228
6	Present Value of Expenses	\$ -	\$ 1,934	\$ 1,679	\$ 1,457	\$ 1,265	\$ 1,098
7	Sum of Present Value of Expenses	\$ <b>7,432</b>					

	<b><u>Access Lines</u></b>						
8	PBX		0	0	0	0	0
9	ISDN-PRI		0	0	0	0	0
10	Other		13,722	13,269	12,816	12,363	11,910
11	Total Chargeable Lines		13,722	13,269	12,816	12,363	11,910
12	Present Value of Chargeable Lines		11,911	9,997	8,380	7,017	5,868
13	Sum of Present Value of Chargeable Lines	<b>43,173</b>					

14	<b>LNP End User Basic Charge</b>	<b>\$ 0.36</b>
15	<b>LNP End User PRI-ISDN Charge</b>	<b>\$ 1.82</b>
16	<b>LNP End User PBX Charge</b>	<b>\$ 3.28</b>

# NECA Model End User Charge Rate Development

## Stockholm-Strandburg

		Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
	<b><u>Investment</u></b>						
1	LNP End User Investment	\$ 74,250	\$ -	\$ -	\$ -	\$ -	\$ -
2	Present Value Factors	1.0000	0.8680	0.7534	0.6539	0.5676	0.4927
3	Present Value of Investment	\$ 74,250	\$ -	\$ -	\$ -	\$ -	\$ -
4	Sum of Present Value of Investment	\$ 74,250					

	<b><u>Expenses</u></b>						
\$ 5	LNP End User Expenses		\$ 284	\$ 284	\$ 284	\$ 284	\$ 284
6	Present Value of Expenses	\$ -	\$ 247	\$ 214	\$ 186	\$ 161	\$ 140
7	Sum of Present Value of Expenses	\$ 947					

	<b><u>Access Lines</u></b>						
8	PBX		0	0	0	0	0
9	ISDN-PRI		0	0	0	0	0
10	Other		659	636	613	590	567
11	Total Chargeable Lines		659	636	613	590	567
12	Present Value of Chargeable Lines		572	479	401	335	279
13	Sum of Present Value of Chargeable Lines	2,066					

14	LNP End User Basic Charge	\$ 3.03
15	LNP End User PRI-ISDN Charge	\$ 15.16
16	LNP End User PBX Charge	\$ 27.29

# NECA Model End User Charge Rate Development

## Venture

		Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
	<b><u>Investment</u></b>						
1	LNP End User Investment	\$ 180,700	\$ -	\$ -	\$ -	\$ -	\$ -
2	Present Value Factors	1.0000	0.8680	0.7534	0.6539	0.5676	0.4927
3	Present Value of Investment	\$ 180,700	\$ -	\$ -	\$ -	\$ -	\$ -
4	Sum of Present Value of Investment	\$ 180,700					

	<b><u>Expenses</u></b>						
\$ 5	LNP End User Expenses	\$	4,930	\$	4,930	\$	4,930
6	Present Value of Expenses	\$ -	\$ 4,279	\$ 3,714	\$ 3,224	\$ 2,798	\$ 2,429
7	Sum of Present Value of Expenses	\$ 16,445					

	<b><u>Access Lines</u></b>						
8	PBX		0	0	0	0	0
9	ISDN-PRI		0	0	0	0	0
10	Other		12,630	12,221	11,812	11,403	10,994
11	Total Chargeable Lines		12,630	12,221	11,812	11,403	10,994
12	Present Value of Chargeable Lines		10,963	9,207	7,724	6,472	5,417
13	Sum of Present Value of Chargeable Lines	39,783					

14	LNP End User Basic Charge	\$ 0.41
15	LNP End User PRI-ISDN Charge	\$ 2.06
16	LNP End User PBX Charge	\$ 3.72



# NECA Model End User Charge Rate Development

## West River

		Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
	<b><u>Investment</u></b>						
1	LNP End User Investment	\$ 99,850	\$ -	\$ -	\$ -	\$ -	\$ -
2	Present Value Factors	1.0000	0.8680	0.7534	0.6539	0.5676	0.4927
3	Present Value of Investment	\$ 99,850	\$ -	\$ -	\$ -	\$ -	\$ -
4	Sum of Present Value of Investment	\$ 99,850					

	<b><u>Expenses</u></b>						
\$ 5	LNP End User Expenses		\$ 2,661	\$ 2,661	\$ 2,661	\$ 2,661	\$ 2,661
6	Present Value of Expenses	\$ -	\$ 2,310	\$ 2,005	\$ 1,740	\$ 1,510	\$ 1,311
7	Sum of Present Value of Expenses	\$ 8,876					

	<b><u>Access Lines</u></b>						
8	PBX		0	0	0	0	0
9	ISDN-PRI		0	0	0	0	0
10	Other		3,495	3,374	3,253	3,132	3,011
11	Total Chargeable Lines		3,495	3,374	3,253	3,132	3,011
12	Present Value of Chargeable Lines		3,034	2,542	2,127	1,778	1,484
13	Sum of Present Value of Chargeable Lines	10,964					

14	LNP End User Basic Charge	\$ 0.83
15	LNP End User PRI-ISDN Charge	\$ 4.13
16	LNP End User PBX Charge	\$ 7.44

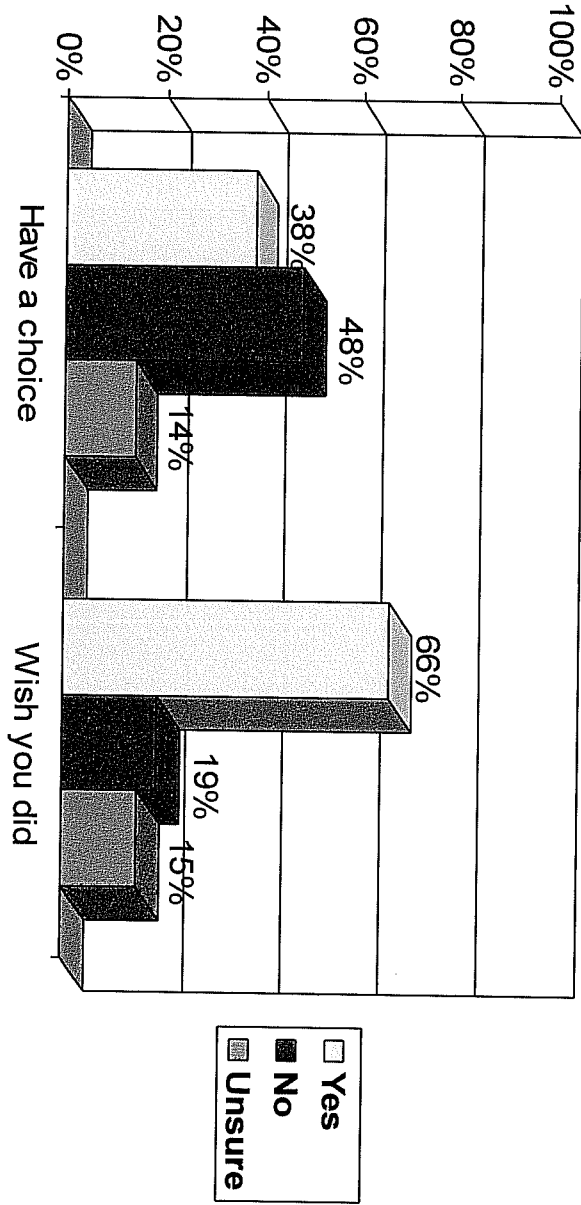
CONFIDENTIAL

# 4

TC 04 - 025

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Do you have a choice of landline providers in your area?  
(If NO) Do you wish you DID have a choice?





80 South Jefferson Road  
Whippany, NJ 07981

**This material is being filed on 15 days'  
notice under Section 204(a)(3) of the  
Communications Act.**

B. Cook  
Director  
Access Tariffs & Planning

Voice: 973-884-8077  
Fax: 973-884-8082  
E-mail: bcook@neca.org

May 17, 2004

Transmittal No. 1025

Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Attention: Wireline Competition Bureau

The accompanying tariff material, issued on behalf of the National Exchange Carrier Association, Inc. (NECA) bearing Tariff F.C.C. No. 5, Access Service, is sent to you for filing, in compliance with the Communications Act of 1934, as amended.

The filing, to become effective June 1, 2004, consists of tariff pages as indicated on the following check sheet:

Tariff F.C.C. No. 5

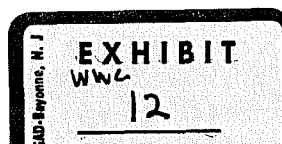
532nd Revised Page 1

This filing adds Barry County Telephone Company (SAC 310676) to the list of companies applying Local Number Portability (LNP) End User Charges.

In compliance with Section 61.14 of the Commission's Rules, the transmittal, associated files, required Form 159 and \$695.00 filing fee are being transmitted electronically today via the Commission's Electronic Tariff Filing System.

All correspondence and inquiries concerning this filing should be directed to me at the above address or faxed to 973-884-8082.

Attachments  
Tariff Pages (3)  
Supporting Documentation



## ACCESS SERVICE

17. Rates and Charges (Cont'd)17.4 Other Services (Cont'd)17.4.4 Miscellaneous Services (Cont'd)(P) LNP End User Charge (Cont'd)

(2)(a) The Telephone Companies listed below will bill the rates listed for the identified study areas over a 60-month period as specified for each rate.

<u>Company Name</u>	<u>State</u>	<u>Study Area Number</u>	<u>Effective Date of Rate</u>	<u>Termination Date of Rate</u>	<u>End User Rate Per Line</u>	<u>Rate Per PBX Trunk</u>	<u>Rate Per ISDN PRI</u>	
Barry County Telephone Company	MI	310676	6/1/04	5/31/09	\$0.33	\$2.97	\$1.65	(N)
Blue Ridge Telephone Company	GA	220346	10/1/03	9/30/08	\$0.06	\$0.54	\$0.30	(N)
Commonwealth Telephone Company	PA	170161	4/1/04	3/31/09	\$0.13	\$1.17	\$0.65	
Concord Telephone Exchange, Inc.	TN	290559	10/1/03	9/30/08	\$0.12	\$1.08	\$0.60	
ETS Telephone Company, Inc.	TX	442091	8/27/03	8/26/08	\$0.47	\$4.23	\$2.35	
Mid-Plains Telephone, Inc.	WI	330881	8/1/00	7/31/05	\$0.09	\$0.81	\$0.45	
Nelson-Ball Ground Telephone Company, Inc.	GA	220375	10/1/03	9/30/08	\$0.12	\$1.08	\$0.60	
North State Telephone Company d/b/a North State Communications	NC	230491	1/1/04	12/31/08	\$0.35	\$3.15	\$1.75	
Telephone Service Company	OH	300659	10/1/02	9/30/07	\$0.25	\$2.25	\$1.25	

Transmittal No. 1025

Issued: May 17, 2004

Effective: June 1, 2004

Director - Access Tariffs  
80 So. Jefferson Road, Whippany, NJ 07981

**NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.  
REVISIONS TO ACCESS TARIFF F.C.C. NO. 5  
LOCAL NUMBER PORTABILITY CHARGES  
TRANSMITTAL NO. 1025  
May 17, 2004**

**DESCRIPTION AND JUSTIFICATION**

**1. INTRODUCTION**

The National Exchange Carrier Association, Inc. proposes to modify its Access Tariff F.C.C. No. 5 to reflect the addition of Local Number Portability (LNP) End User Charges for Barry County Telephone Company (Barry), which has received a bonafide request for number portability. The services provided by Barry are consistent with Section 13.14, Local Number Portability Services, of NECA's Tariff F.C.C. No. 5.

**2. LNP DEMAND, COST AND RATE DEVELOPMENT**

The demand for LNP capable access lines and queried calls were projected over 5 years. Barry County Telephone Company does not currently have PBX or PRI-ISDN lines; however, a PBX End User Charge and a PRI-ISDN End User Charge have been calculated for it, at nine times and five times the End User Charge, respectively.

Costs provided by the company include switch up grade costs required to support wireline and wireless LNP capability, and projected ongoing charges over 5 years. LNP End User Charges were set to equate the present value of revenues to the present value of cost outlays. Present values of total costs were obtained using a discount factor of 15.21%, which is the after-tax cost of money (11.25%) grossed up for the tax rate (35%). This gross-up is only applied to the equity portion of the cost of money, because the debt portion is already tax-deductible, but the equity portion is taxable.

The circuit switching costs used in the development of the LNP End User Charges are only those direct costs required to implement LNP. In identifying which of these LNP costs could be included in the rate, the company used two criteria to isolate LNP costs, based on the FCC guidelines: (1) the costs would not have been incurred by the telephone company if number portability was not implemented, and (2) the costs were incurred "for the provision of" number portability. Using these criteria yielded an investment amount of \$39,500. This amount includes switch manufacturer LNP software fees and translation costs.

Beginning year one, expenses recovered by the End User Charge range from \$16,000 to \$19,000 per year, and fall into two categories: a) projected charges to be paid to the query provider for queries that the telephone company initiates in its capacity as an N-1 carrier, and b) database administrator charges, and training costs. Query expenses are

only for queries necessary to complete local and Extended Area Service (EAS) calls originated from the company's end users. End user query expenses were obtained by multiplying query projections by the per query rate, paid by the telephone company to its query provider.

The demand and costs used to develop LNP End User Charges for the company are detailed in Exhibit 1. (See Exhibit 1 attached.)

Local Number Portability - Barry County Telephone Company

EXHIBIT 1

May 17, 2004

End User Charge Rate Development

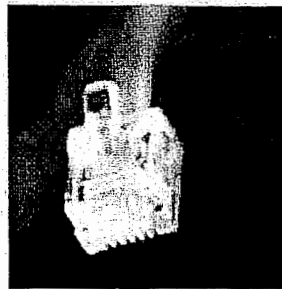
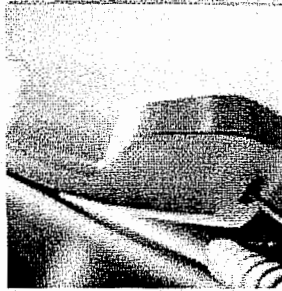
LINE		0	1	Year 2	3	4	5
	<b><u>Investment</u></b>						
1	LNP End User Investment	\$36,000	\$3,500	\$0	\$0	\$0	\$0
2	Present Value Factors	1.0000	0.8680	0.7534	0.6539	0.5676	0.4927
3	Present Value of Investment	\$36,000	\$3,038	\$0	\$0	\$0	\$0
4	Sum of Present Value of Investment	<b>\$39,038</b>					
	<b><u>Expenses</u></b>						
5	LNP End User Expenses	\$1,000	\$18,144	\$16,191	\$17,664	\$18,422	\$19,218
6	Present Value of Expenses	\$1,000	\$15,749	\$12,198	\$11,551	\$10,456	\$9,468
7	Sum of Present Value of Expenses	<b>\$60,422</b>					
	<b><u>Access Lines</u></b>						
8	PBX		0	0	0	0	0
9	ISDN-PRI		0	0	0	0	0
10	Other		7,814	7,619	7,429	7,244	7,063
11	Total Chargeable Lines <sup>1</sup>		7,814	7,619	7,429	7,244	7,063
12	Present Value of Chargeable Lines		6,782	5,740	4,858	4,112	3,480
13	Sum of Present Value of Chargeable Lines	24,972					
14	LNP End User Basic Charge <sup>2</sup>	\$0.33					
15	LNP End User PRI-ISDN Charge <sup>3</sup>	\$1.65					
16	LNP End User PBX Charge <sup>4</sup>	\$2.97					

**NOTES**

1. Line 11 = (Line 8 \* 9) + (Line 9 \* 5) + Line 10
2. Line 14 = ((Line 4 + Line 7) / Line 13) / 12
3. Line 15 = 5 \* Line 14
4. Line 16 = 9 \* Line 14



# 2004 Rural Youth Telecommunications Survey

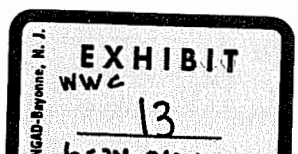


***Teen Preferences Create New Windows  
of Opportunity for Rural Telecom Carriers***

Foundation  
for Rural Service



NTCA   
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION  
The Voice of Rural Telecommunications  
[www.ntca.org](http://www.ntca.org)



## ABOUT THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION



NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

*The Voice of Rural Telecommunications*

[www.ntca.org](http://www.ntca.org)

The National Telecommunications Cooperative Association (NTCA) is the preeminent telecommunications industry organization dedicated exclusively to representing and serving the interests of the nation's small, rural incumbent local exchange carriers (ILECs). These cooperative and commercial community based telecommunications providers play a leading role in advancing the communications revolution currently underway. Their presence in rural communities helps ensure the economic future of those communities, as well as that of the individuals they serve.

NTCA was formed by a group of these rural carriers in 1954 to help ensure their telecommunications interests were fully recognized and understood by federal policy-makers. The mission of NTCA and its members is clear—to ensure their ability to provide rural consumers with access to the most advanced, affordable communications services of the era. For more information about NTCA and its members, visit our Web site at [www.ntca.org](http://www.ntca.org), or call 703-351-2035.

## ABOUT THE FOUNDATION FOR RURAL SERVICE



Foundation  
for Rural Service

The Foundation for Rural Service (FRS) was founded in 1994 to help strengthen the ties between rural communities and their families and businesses. Since its establishment by the National Telecommunications Cooperative Association, FRS has worked hard to promote, educate and advocate rural telecommunications issues to the public in order to sustain and enhance the rural way of life throughout America. Besides being heavily involved in youth education and empowerment, the Foundation for Rural Service leads aggressive public information campaigns and assists rural areas with economic and community development projects. For more information on FRS, visit our Web site at [www.frs.org](http://www.frs.org), or call 703-351-2026.

## **2004 Rural Youth Survey Reveals Shift in Teen Preferences; New Windows of Opportunity for Rural Telecom Carriers**

*By Athena Platis, NTCA Wireless Industry Analyst*

Young people are no strangers to telecommunications. One glance at world headlines proves they are using technology to do everything from foiling crimes through the use of mobile telephones embedded with tiny cameras to creating and releasing destructive Internet worms. The National Telecommunications Cooperative Association (NTCA) and the Foundation for Rural Service (FRS) recognize this, and through their annual rural youth survey, have encouraged rural carriers to “connect” with teens<sup>1</sup> in their markets and unlock the potential within.

The purpose of the annual youth survey, now in its third year, is to determine the unique telecom preferences of young consumers from rural areas and convey them to small independent carriers, so that they might modify their product offerings accordingly. Continuing the tradition of past surveys, questionnaires were sent to 2,000 former FRS Youth Tour participants and applicants to the FRS College Scholarship Program. Of these survey sent to youth<sup>2</sup> in rural communities across the United States, 670 were filled out and returned<sup>3</sup>.

### ***Confronting the Rural ‘Brain Drain’***

Rural America is threatened by a “brain drain”—its young people typically go away to college in larger metropolitan areas, and in many cases, leave behind for good their rural homes to live in urban areas after graduation. This loss of an educated labor force could have a potentially dramatic impact on the future viability of rural America. The ability to offer the same state-of-the-art telecommunications services as are available in non-rural areas could play a significant role in increasing the attractiveness and livability of rural communities.

Though telecom carriers of all sizes long have been advised to focus on these young consumers and begin building relationships with their “business customers of tomorrow,” the return on an investment in the youth market likely will materialize much, much sooner. When it comes to telecommunications, teens already are big spenders, and experts predict their wireless spending will increase dramatically over the next year.<sup>4</sup> With this in mind, NTCA and FRS recommend rural telecom carriers use the results of this report<sup>5</sup>, in conjunction with their own market research, to customize their youth-focused offerings and implement or enhance their targeted marketing and sales efforts

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<sup>1</sup> In this report, the terms “teen” or “youth” are used to refer to those in the 17-20 age group.

<sup>2</sup> The majority of survey respondents-- 69%--attend a four -year college or university, and 18% attend a two-year college. High school students made up 10% of survey takers, with the remaining 3% not currently enrolled in school.

<sup>3</sup> Resulting in a 34% return rate.

<sup>4</sup> Boston-based market research firm Yankee Group estimates that teenaged wireless users in the U.S. generated \$5 billion in service revenues in 2003 and expects that figure to jump to \$21 billion for 2004.

<sup>5</sup> Percentages may not add up to 100 due to rounding.

today, so that they too might reap benefits from the new wave of revenue expected over the next few years.

### ***Wireless Penetration Among Rural Teens Continues to Rise***

An astonishing 86% of survey respondents said they have their own wireless phone, leaving only 14% without. This penetration rate among rural teens, which is significantly higher than estimations for the youth market on a national level,<sup>6</sup> most likely is attributed to the safety and convenience issues associated with life in small towns.

While statistics show that the crime rates in small towns typically are lower than those in urban areas, safety still is a major concern due to the spread-out nature of rural communities, the long distances traveled to go to school or sports activities, and the steady decline of payphones in small communities. When a teen becomes stranded with a flat tire on a rural road at night, a personal, mobile communication device is more than a convenience. It is a safety tool. The fear of scenarios such as this provides much of the push behind wireless penetration in rural youth markets. For this reason, a mobile wireless device increasingly is seen as more of a necessity than a luxury in rural America.

In addition, wireless service can be expected to have a higher penetration rate among college students not living at home than among high school students. Wireless service not only offers increased convenience and privacy, but also can free college students from having to subscribe to the typically high-priced, low-quality, university-provided wireline phone service.

Among those survey respondents who were cellular customers, very few, just 5%, identified themselves as prepaid wireless customers. The other 95% have postpaid wireless service contracts. These numbers have shifted slightly from the 2003 survey, which placed the division at 7% and 93% for prepaid and postpaid wireless customers, respectively. Of those indicating they prepay for wireless service, 50% said they do so because their parents buy their phone and plan. This indicates that parental decision-makers are a major force behind prepaid wireless, a factor that rural carriers should consider when marketing such services.

This year's survey also shows that parents largely support traditional contract wireless services, with 60% of survey takers reporting that their parents buy their phone and pay for their airtime each month. With the role of parents as bill-payers in mind, where and when feasible, rural carriers should consider bundling landline and wireless services into one bill. Since the survey shows parents, generally, are paying for their teens' wireless consumption, it makes sense to consolidate wireless services into a bill they already are paying. Such a convenience could be a significant factor when parents are deciding on a carrier for their child's wireless service.

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<sup>6</sup> According to a 2003 study the Yankee Group, nationwide, 56% of young people ages 11 to 17 own or share a cellular phone.

### ***Voice Still 'King' in Rural Areas, but Text Messaging Catching On***

The frequency of wireless phone usage among rural youth appears to be on the rise, with 45% of respondents saying they “always” use their wireless phones, up from 38% last year. The number of respondents indicating that they “frequently” use their cellular phones fell to 43%, down from 46% last year. This drop can be contributed partially to a shift in responses from “frequently” to “always,” as noted above.

Ninety-eight percent of survey takers said they use their wireless phones most often for voice calls, proving voice is still the “killer app,” despite increasing industry hype surrounding wireless data services. And young people in rural areas seem to have plenty to say: 30% of the rural teens surveyed said they racked up, on average, between 251 and 500 minutes of use per month on their cellular phones, relatively the same as last year’s 31% result for this category. The percent of survey respondents that identified themselves as users of, on average, between 501 and 750 wireless minutes per month increased slightly, to 23%, up from 20% in 2003.

This slow trend toward increased monthly usage had a mild effect on the lower part of the minute scale, with 22% of respondents indicating they use 250 minutes or less each month, down from 26% the year before. On the high end, responses from those using between 751 and 1,000 minutes also were up slightly, from 12% in 2003 to 14% this year. The results for the 1,001 minutes or more category held steady at 11%.

The survey shows the average monthly bill of rural youth has increased over the last year, with 31% of respondents saying they generally spend between \$51 and \$100 a month on wireless services, up from last year, when the same category generated a response of only 19%. This jump in wireless spending is reflected in the decline in responses for monthly bills ranging from \$26 to \$50. This year that category received only 53% of responses, down from 64% last year. When those without wireless phones were asked for the primary reason they didn’t have one, 58% indicated that service was too expensive.

The survey further shows that the wireless messaging craze has finally hit rural markets, with defined increases in text messaging usage since 2003. Most significantly, 12% of respondents specified that they “frequently” use the text messaging feature on their phones, double last year’s 6%. Forty-six percent of survey respondents said they “never” text message from their mobile phones. This is a significant change from last year, when 62% noted that they “never” sent text messages from their wireless phones.

### ***Local Calling Gains Ground in Promotional Popularity***

When it comes to wireless service promotions, the preference for free nighttime minutes beat out free long-distance, which was last year’s favorite. The free nighttime minutes option was preferred by 38% of survey respondents, up from 27% last year, followed by free long-distance at 21%, down from 31% in 2003. This shift seems to indicate that rural teens are using their wireless phones most frequently for local, rather than long-distance, calling. This would be good news for small wireless operators that can more easily afford to give away in-network minutes and local out-of-network calls than long-distance calls.

If this trend toward local calling continues, rural wireless carriers could find themselves better positioned to compete with the nationwide carriers, which currently are eating into their customer bases with hard-to-match long-distance promotions. The survey also indicates that free roaming, family plans and “buddy plans” proved to be less popular promotions among rural youth, resulting in responses of 13%, 10% and 2%, respectively.

The survey also shows that rural teens continue to prefer larger wireless companies for their wireless carrier of choice, with 75% of respondents indicating they are customers of nationwide carriers, up from 70% last year. As a result, responses from those served by small regional carriers dropped to 20%, down from 23% the year before. While these numbers seem to illustrate small regional wireless carriers are losing ground in the race for share of their own youth markets, the shift in consumer preference from free long-distance to free local could create a foothold for small carriers in the struggle against their larger competitors.

### ***Rural Youth Show Trend Toward Wireless Displacement of Wireline Services***

Survey results indicate that wireless displacement of wireline services is not just a threat, but an emerging reality. In fact, wireline displacement is growing at an alarming rate among rural youth, with 20% of survey takers saying they “rarely” use the landline phone in their residence, up from just 13% last year<sup>7</sup>. Those indicating they “never” use the landline phone in their homes also jumped sharply, from 6% last year to 14% this year. This trend shows the slow but steady progression of the youth market toward complete disassociation from landline phones.

This shift toward wireless not only is logical because of the obvious convenience and mobility factors, but also because cellular phones provide an outlet for personal expression and privacy usually not attainable with landline phones. Recognizing this connection between wireless phones and self-expression is wireless handset maker Nokia. The company is pushing the role of wireless phones in teen culture through the creation of YouthActionNet, an online forum and Web site designed to encourage activism and interaction among young people via high-tech communications tools, such as the Internet and wireless telephony<sup>8</sup>.

The integration of mobile phones and their capabilities into the lifestyles of teenagers makes portability a critical factor. For this reason, it is not surprising to find that, when asked which phone feature was most important, an overwhelming 59% of survey takers said “small size.” The response beat out other options less critical to ease of portability, including color screen, camera features and downloadable ring-tone capabilities. Rural wireless carriers should consider this preference and keep the very “mobile” nature of school-going teens in mind when selecting handsets for their product portfolios.

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<sup>7</sup> Market research firm In-Stat/MDR finds that 14.4% of U.S. consumers use a wireless phone as their primary phone, versus 85.6% who still use a landline as their primary phone. The firm also reports that of those consumers still using a landline as their primary phone, 26.4% would consider replacing it with a wireless phone, creating a considerable potential for wireline displacement over the next few years.

<sup>8</sup> Nokia, together with the International Youth Foundation, launched YouthActionNet in 2001.

The survey shows that 58% of respondents use their landline phones primarily for local calls, down only slightly from last year's 61%. With so many wireless plans now offering free long-distance calling, it is not surprising that landlines would be reserved almost entirely for local calling. This was underscored by the response rate in the survey, as only 8% of respondents said their primary use for landline is long-distance calling. Of those surveyed, 14% said they use their landline primarily for an Internet connection.

***High-Tech Teens Can Deliver Revenue Boon for Rural Carriers; Act as Gateway to Recruiting Older Customers***

One might think that teens provide the impetus for subscribing to wireless telephone service. However, further investigation reveals that many don't even have to ask for the phone, but instead are offered the device by their parents, as 60% of survey takers indicated that their parent or guardian pays for the service. Safety issues and the desire to "keep in touch" were the prime motivating factors behind the parental purchases of wireless service.

As current events and the heightened state of national security direct trends in the demand for mobile wireless service, rural carriers have new opportunities to play a role in personal safety<sup>9</sup>. With this in mind, rural carriers would be wise to add indirect marketing techniques to their existing campaigns in which promotions and sales, though aimed at the youth market, are funneled through their parents.

By incorporating these alternate routes for telecommunications marketing, carriers could expand their reach and, potentially, win more subscribers. In fact, this kind of marketing has the potential to become circular, because parents often come to operate high-tech/telecom devices, and integrate them into their daily lives either by passively watching or actively learning from their tech-savvy children.

Rural carriers should not only target the youth market as a customer base in and of itself, but also should view young people as possible conduits for bringing advanced telecommunications services into the homes and lives of the often less technology-literate middle-aged consumer.

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<sup>9</sup> Safety is a two-way street, however, and although cellular phones can be life-saving devices, they also have been, for years, viewed as instruments of distraction, most notably when used by drivers in their cars. While driver distraction due to cellular phone use is dangerous enough alone, when inexperience behind the wheel is added into the mix, the result can be especially deadly/dangerous. The National Transportation Safety Board began calling for a ban on cellular phone use by new drivers last year. Similarly, a bill that would make it illegal for 16- and 17-year-old drivers to use cellular phones while driving a car was introduced by the California Senate committee in April 2004. Other state governments are considering similar legislation. Rural wireless carriers can contribute to these safety-focused efforts by developing campaigns, perhaps in cooperation with area high schools and driver education centers, that promote sensible wireless usage and avoiding phone usage while driving. Companies such as Cingular Wireless and NEC America already have similar initiatives in place.

### ***Internet Usage Patterns Hold Steady, but Broadband Penetration is on the Rise***

Forty-five percent of respondents said they use the Internet most often to access educational or reference material. This result is up only slightly from 42% last year, but shows a significant growth trend since 2002, when the category garnered only 32% of the responses. The popularity of educationally focused Web use is logical for this target group, considering 97% of this year's survey takers were enrolled in school<sup>10</sup>. Entertainment content on the Internet maintained its popularity, resulting in 32% of the response, virtually unchanged from 31% in 2003.

Those indicating they accessed music-related Web sites decreased to 12% this year, down from 16% in 2003 and 20% in 2002. This decline should not be attributed to a lack of desire by teenagers to access music online, but instead should be seen as a side effect of the backlash by the music industry over music unlawfully downloaded from the Internet, which has led to the legal prosecution of many young people. The increasing availability of music downloads on mobile handsets undoubtedly is a contributor as well. Teens who said they visited news and sports-related Internet sites most often resulted in only 6% and 5% of responses, respectively.

As for time spent online, 47% said they spend, on average, between one and three hours a day online, up from 43% last year. This was followed by 38% who said they spend less than an hour online, a slight decrease from 40% in 2003. This category was rounded out by the 12% who said they spent between three and six hours a day online, as compared to 13% last year, and the 3% who indicated they spent more than six hours a day surfing the Internet, also a slight decline from last year's 4%.

An overwhelming 83% of teens surveyed said they had Internet access both at home and at school. When it comes to Internet connections, the survey shows an increased penetration of broadband in rural areas. One-fourth, or 25%, of survey-takers, identified themselves as having a DSL (digital subscriber line) Internet connection, up significantly from 16% last year. This shift toward broadband partially is responsible for the decrease in response from dial-up customers, which fell to 50% this year, down from 57% in 2003 and 70% in 2002. The tally for cable and wireless connections remained fairly steady at 13% and 3%, respectively.

### ***Rural Youth Should Be Paramount in Rural Carriers' Business Plans***

NTCA and FRS are committed to helping rural carriers bring advanced telecommunications to rural America, not only to maximize their revenues today, but also to create environments that are technologically advanced enough to attract and keep young people in rural America in the years to come. With this goal in mind, NTCA and FRS advise small rural telecommunications carriers to consider the young consumers in their service areas a top priority when creating product and service offerings, selecting handsets and planning marketing campaigns.

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<sup>10</sup> Sixty-nine percent of survey takers said they attended a four-year college/university, followed by 18% attending a two-year college and 10% attending high school. Only 3% indicated they were not currently enrolled in school.



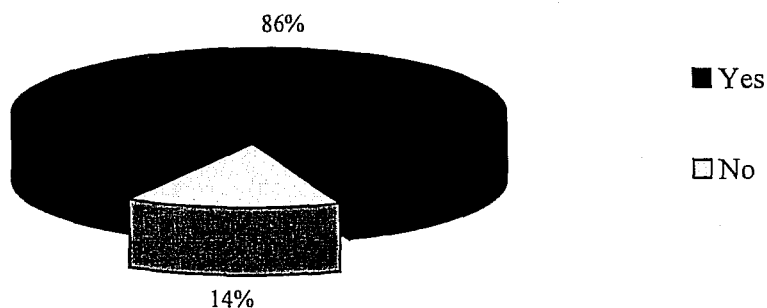
By reacting to the trends and strategies identified in the 2004 Rural Youth Survey, and by gathering their own youth-focused data, rural wireless carriers may find they are more effectively able to combat the growing threat of nationwide carriers offering service in their markets.

The 2004 Rural Youth Survey shows that wireless penetration in the rural youth market is sky-high and getting higher, and that phones are used most often for local voice calls. However, while wireless may be slowly displacing wireline services as the rural teenager's preferred mode of communication, the forward-thinking, tech-savvy nature of the younger generation should be viewed by rural carriers as an opportunity rather than a threat.

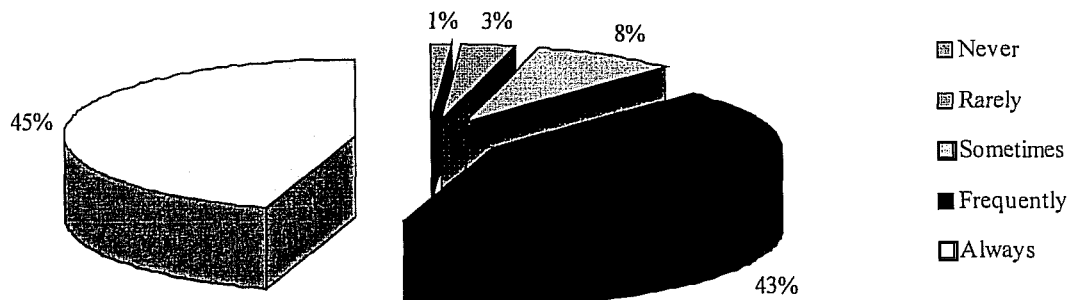
As an added bonus, by recruiting new, young telecom consumers, rural service providers may find they have a gateway for marketing to their existing customer base. By creatively playing up their unique strengths within their markets, such as brand recognition, leveraging strategic local relationships (with schools and universities where possible) and bundling with landline services when possible, rural carriers could find they have significant advantages over their national counterparts.

#### *Selected Results...*

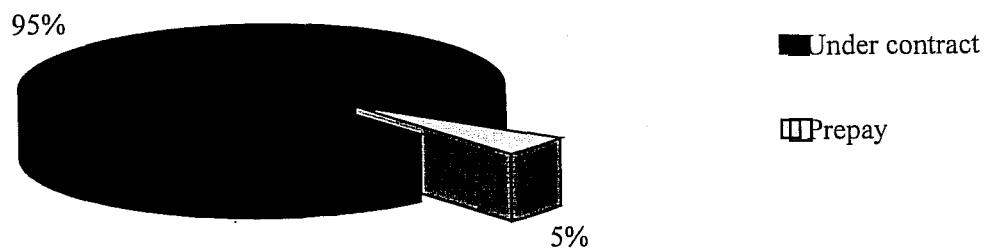
**Figure 1: Do you have a wireless phone?**



**Figure 2: How often do you use your wireless phone?**

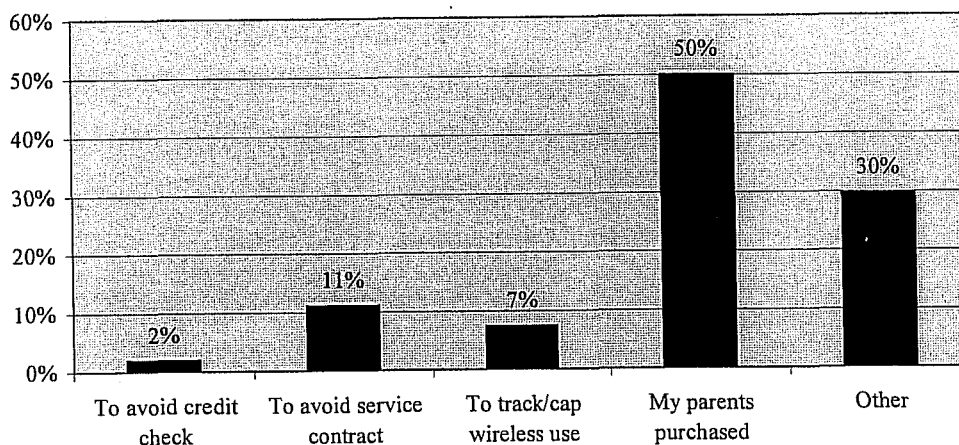


**Figure 3: Are you under contract for your wireless phone, or do you prepay for service?**

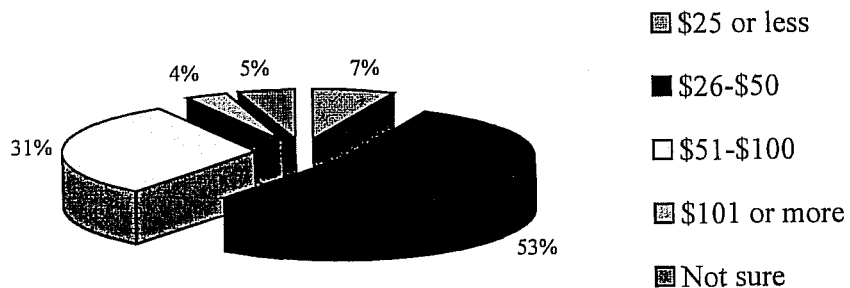


**Figure 4: Why do you prepay for your service?**

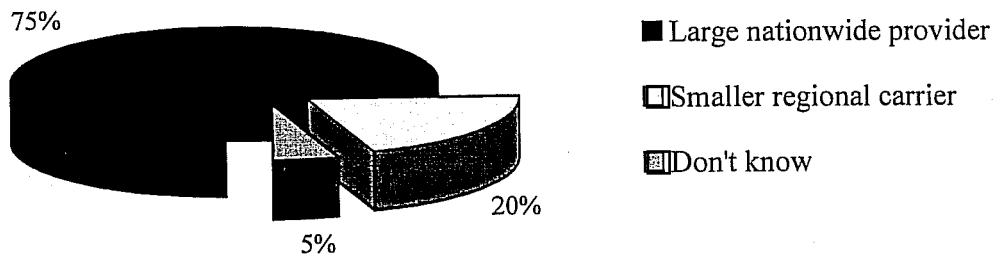
Prepay Options



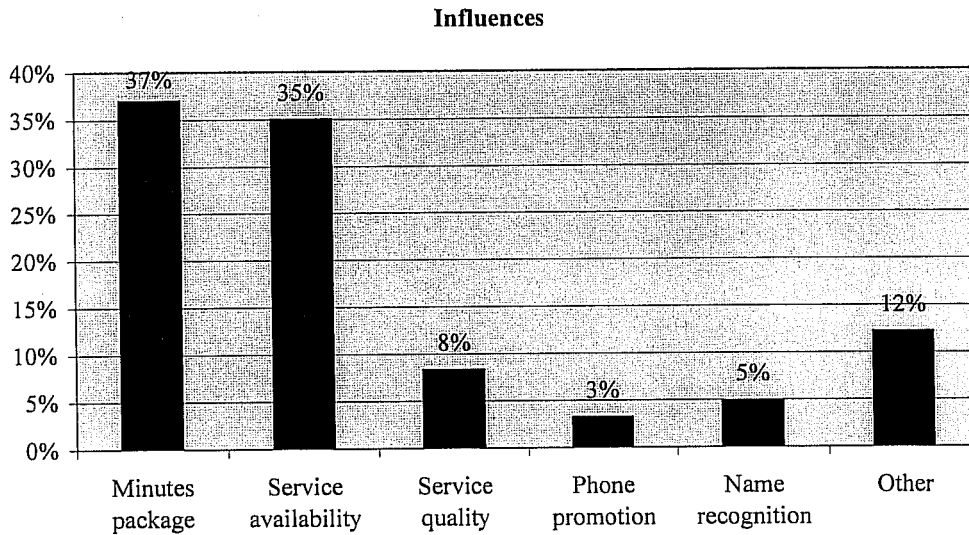
**Figure 5: How much is your average monthly bill for your wireless phone?**



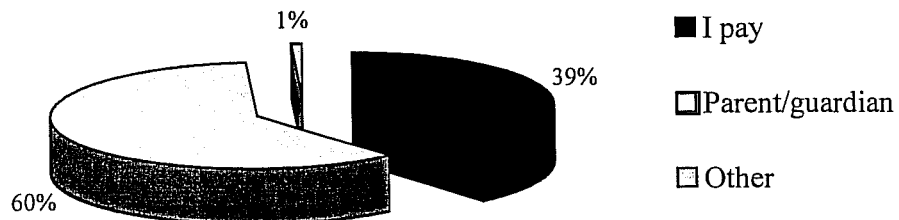
**Figure 6: The provider of your wireless service is...**



**Figure 7: Given the choices listed below, which most influenced your decision...**

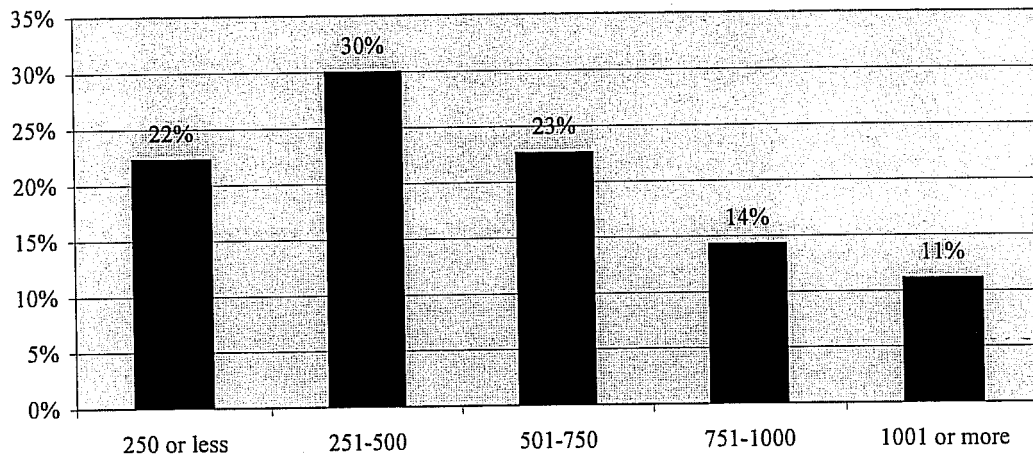


**Figure 8: Who pays for your wireless phone service?**

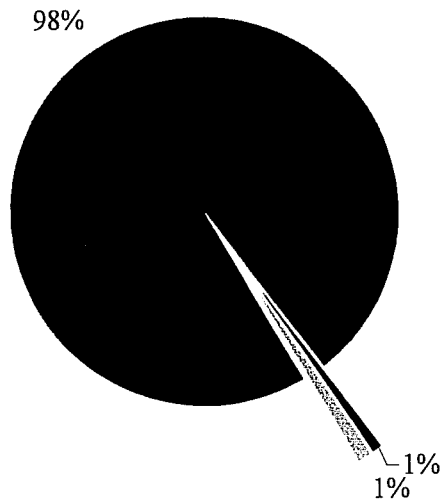


**Figure 9: On average, how many minutes do you use each month?**

Minutes per Month



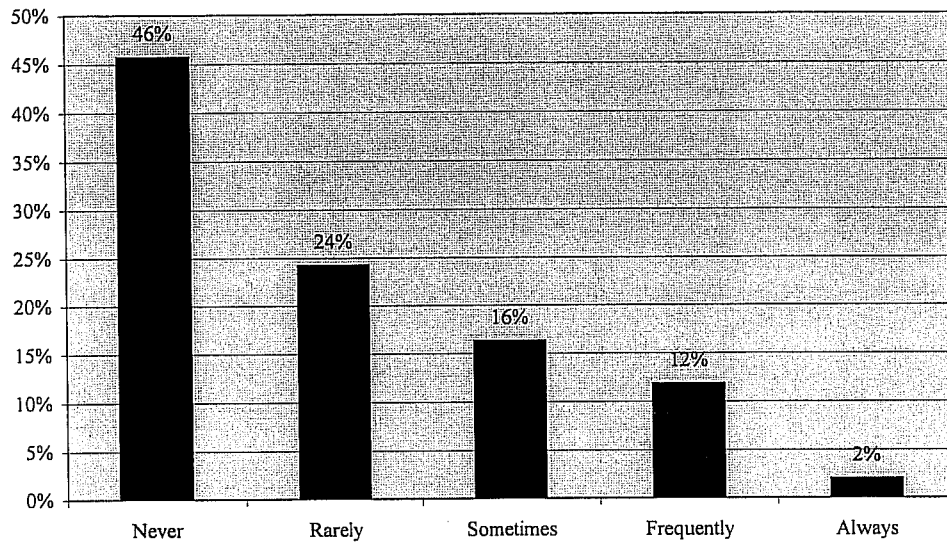
**Figure 10: For what activity do you use your wireless phone most often?**



98% of respondents use their wireless phone for voice calls. The other 2% is divided between text messaging and e-mail services.

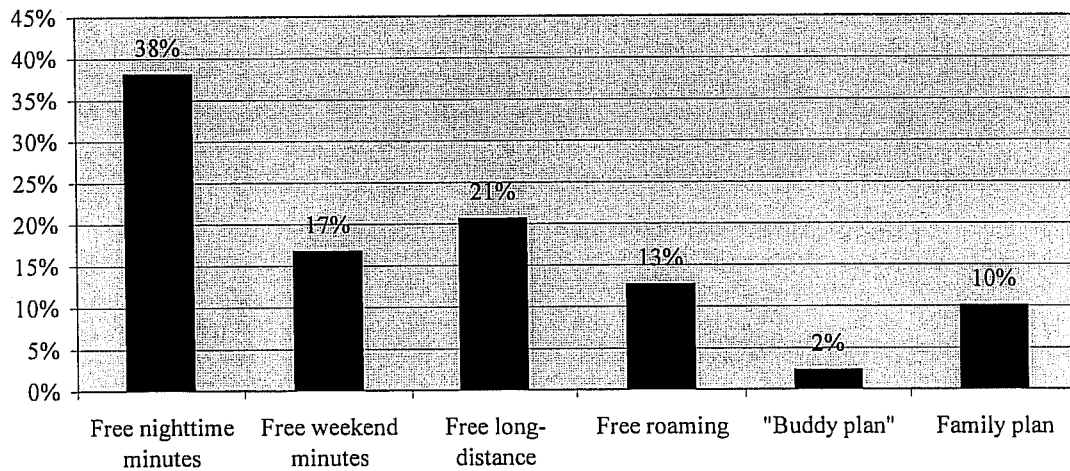
**Figure 11: How often do you use the text messaging feature on your wireless phone?**

Text Messaging



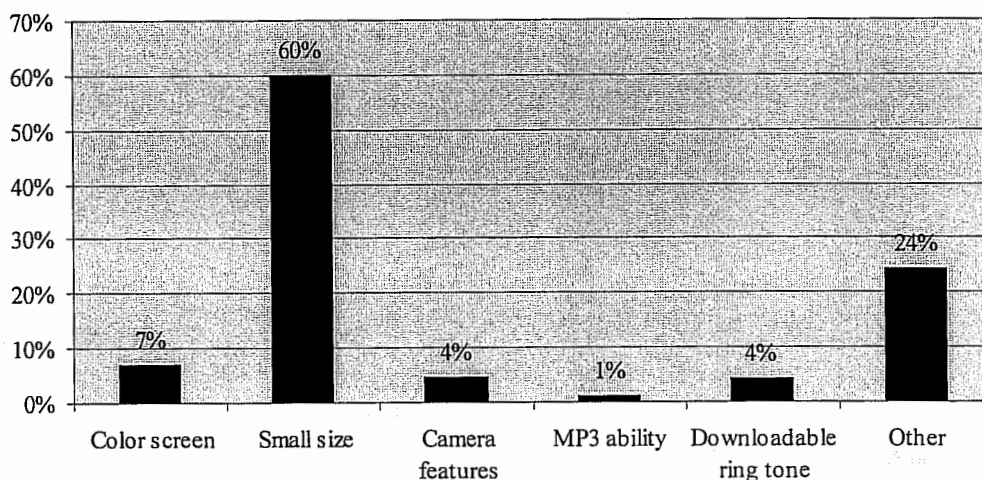
**Figure 12: What promotion do you consider most valuable?**

Wireless Promotions

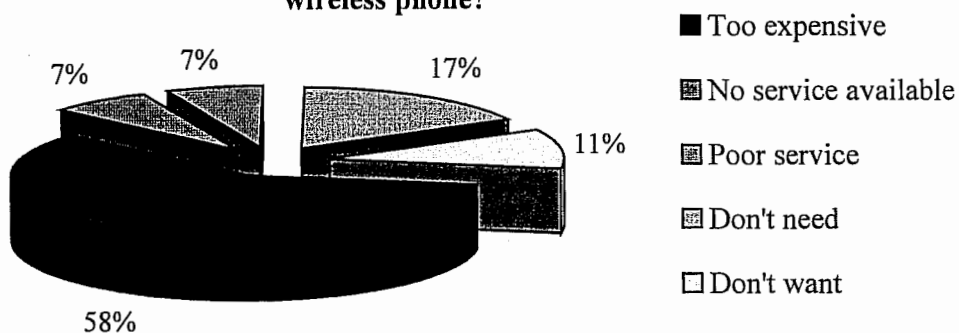


**Figure 13: What wireless phone feature is most important to you?**

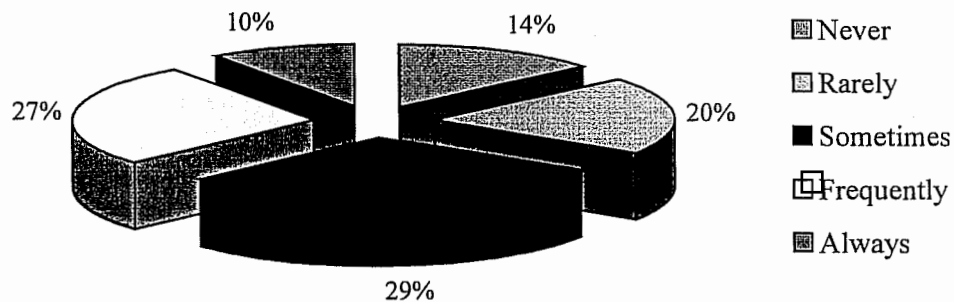
Wireless Features



**Figure 14: What answer best describes the primary reason you do not have a wireless phone?**

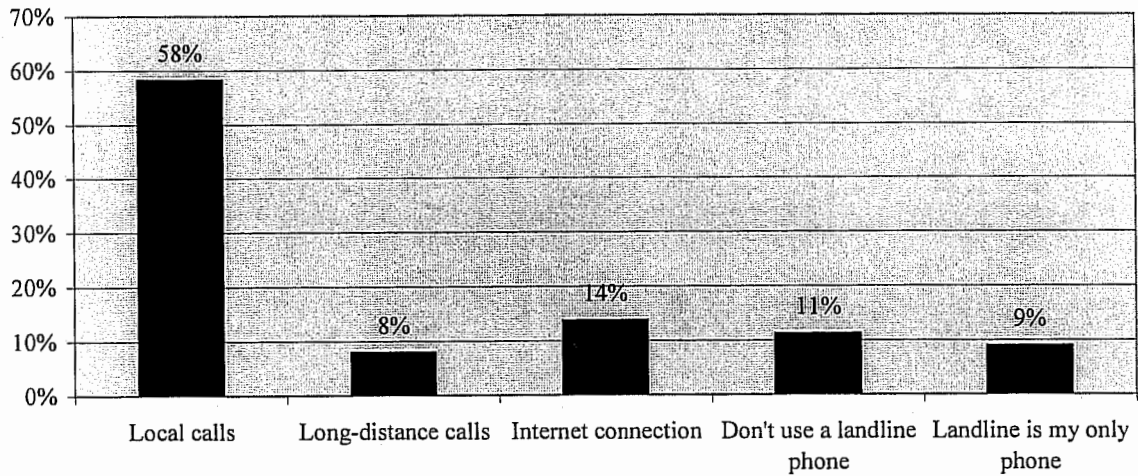


**Figure 15: How often do you use the landline phones in your residence?**

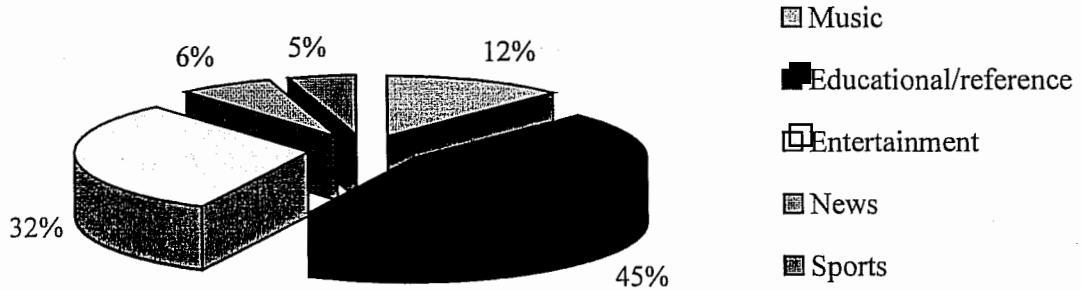


**Figure 16: What is the primary reason you use a landline phone?**

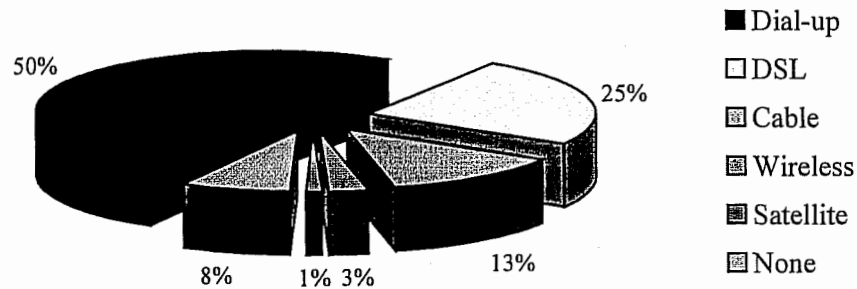
Landline Use



**Figure 17: What type of Internet site do you visit most often?**

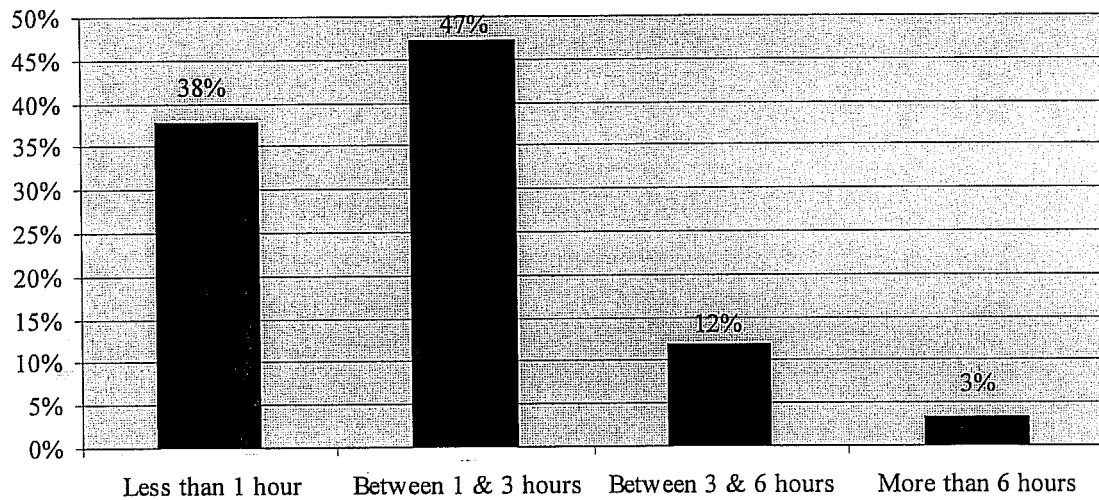


**Figure 18: What type of Internet connection do you have?**



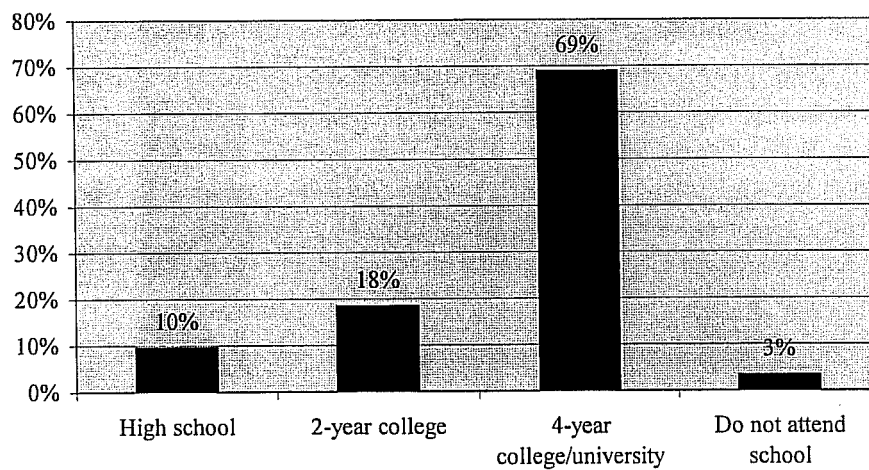
**Figure 19: On average, how many hours a day do you spend online?**

Internet Use



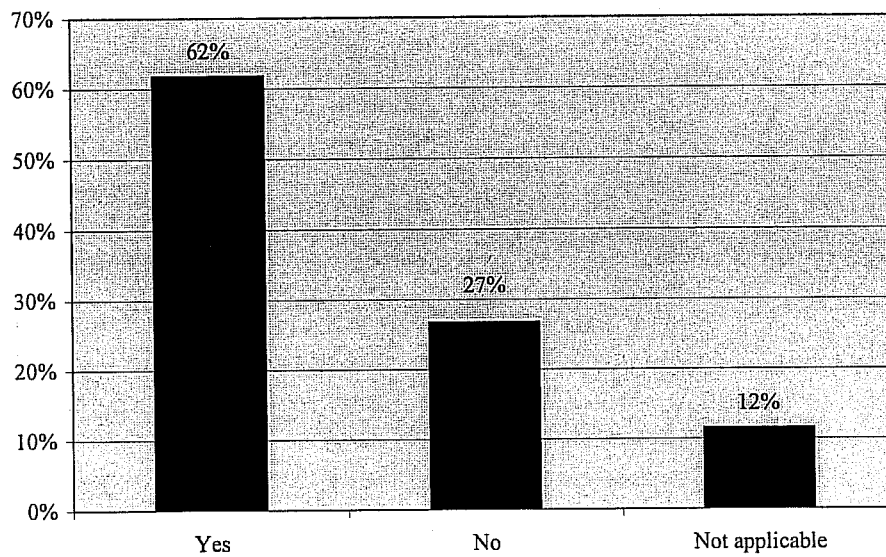
**Figure 20: I currently attend...**

Education

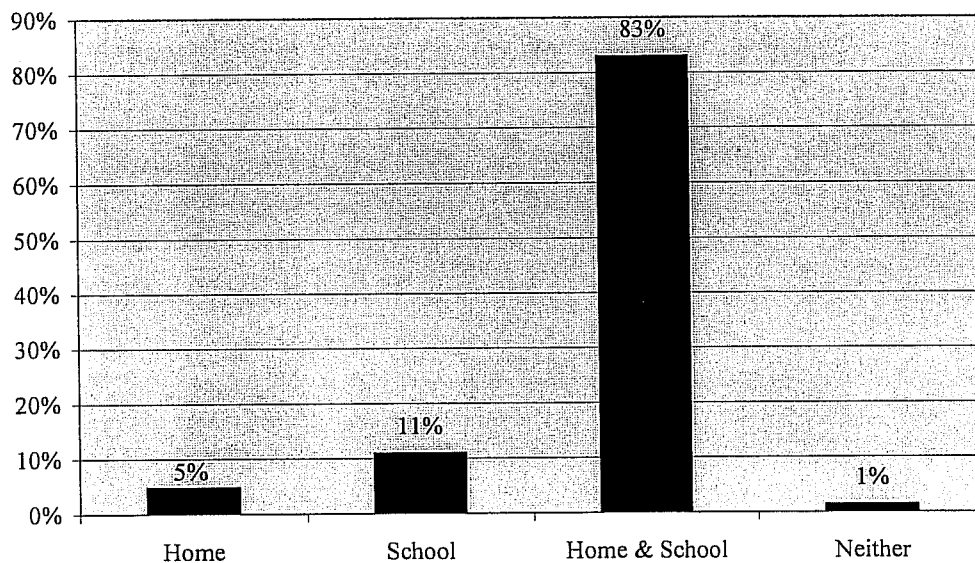




**Figure 21: Do you plan to live in a rural area after graduation?**



**Figure 22: Do you have Internet access at...**



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June 1, 2004

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**Re: In the Matter of the Petition by the Minnesota Independent Coalition for  
Suspension or Modification of Local Number Portability Obligations  
Pursuant to 47 U.S.C. § 251(f)(2)  
Docket No. P-401, et al./M-04-707**

Dear Dr. Haar:

Enclosed for filing are the Comments of Qwest Corporation regarding MIC Petition regarding the above-referenced matter.

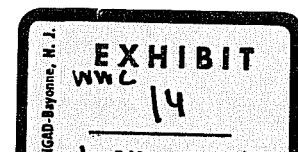
Sincerely,

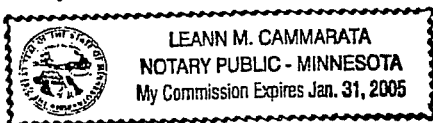
  
Jason D. Topp

JDT/bardm

Enclosures

cc: Service List





**In the Matter of the Petition by Minnesota  
Independent Coalition for Suspension or  
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Obligations**

**Docket No. P-401, et al./M-04-707**

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**STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION**

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Marshall Johson  
Phyllis A. Reha  
Kenneth A. Nickolai

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition by the Minnesota Independent Coalition for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2)      MPUC Docket No. P401, et al./M-04-707

**COMMENTS OF QWEST CORPORATION  
REGARDING MIC PETITION**

**INTRODUCTION**

Qwest Corporation ("Qwest") submits these comments on the Petition of Members of the Minnesota Independent Coalition (collectively, "MIC Companies") for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) of the Telecommunications Act of 1996 ("Petition"). Qwest Corporation takes no position regarding the MIC's request for suspension, does not object to a temporary short term agreement that only addresses CMRS transit traffic, but does object to the MIC's request that the Commission require TELRIC like rates for Qwest to provide such services.

Qwest files these comments to outline its position on these issues and to respond to a number of allegations made by the MIC in its petition. First, it is essential to recognize that it is the MIC Companies who have the wireless LNP obligations at issue in this case; these are

not Qwest's obligations.<sup>1</sup> The MIC Companies have a number of alternatives for meeting their wireless LNP obligations. Only one of those alternatives involves purchasing services from Qwest. Finally, the MIC should act to meet those obligations in as expedient a manner as is possible.

Qwest would like to be the provider of transit to allow the MIC Companies to meet their obligations. However, Qwest wants to be compensated appropriately through a market-based rate for providing the service to MIC Members. Qwest's expectation is no different than the expectation of other potential providers of these services to the MIC Companies. In an effort to provide service to the MIC Companies, Qwest has made two alternatives available for providing the service, (1) Qwest has offered an interim ninety day arrangement for wireless LNP transit service, that Qwest would be able to implement for all 106 trunks at issue in this case within three weeks of a signed agreement, and (2) Qwest has proposed a more long term agreement covering the transit function that Qwest provides to MIC Companies and for which the MIC Companies currently are not paying Qwest. Not satisfied with the options Qwest has offered, the MIC Companies seek to have this Commission put its thumb on the scale of these negotiations in an illegal attempt to force Qwest to provide transit service to MIC Companies at illegal and economically unreasonable rates.

In these comments, Qwest makes the following points:

- The MIC Companies have had the obligation to provide LNP since 1996, and have had a specific deadline of May 24, 2004 to implement wireless LNP since

---

<sup>1</sup> Qwest also has wireless LNP obligations, but has met its obligations and is not seeking relief from its obligations from the Minnesota PUC.



November 10, 2003. The MIC Companies first contacted Qwest about routing wireless LNP calls on March 12, 2004, eight years after the passage of the act and four months after the FCC order.

- The MIC Companies have two relevant obligations under the act: (1) updating their switch to be LNP capable; and (2) updating their networks to permit their customers to call the ported number.
- Qwest does business with independents in 14 states. Other independents have very rarely made similar requests to the one made in Minnesota.
- With respect to the obligation to update switches, it appears that certain MIC Companies have not yet complied with their obligations. With one exception, it appears that the MIC Companies have not requested a waiver of the May 24 deadline for upgrading their switches.
- With respect to the routing of traffic, MIC Companies have multiple options for routing such calls. Attached as Exhibit 1 is the diagram presented to the Commission at the May 20, 2004 Commission Meeting, modified to reflect the addition of Onvoy, who is the listed toll tandem provider for most MIC Companies. Among other options, MIC Companies can (1) direct connect with the wireless companies; (2) route the calls through their existing toll tandem provider (usually Onvoy); (3) route the calls through Qwest's tandem; or (4) hand off to another third party.
- Qwest would like to carry this traffic through its tandems. Qwest would like to obtain this business through an agreement with MIC Companies that want such

service, on terms that are economically reasonable. In the event the MIC Companies are not able to agree to terms with Qwest, they have other alternatives for meeting their obligations.

- The MIC Companies have taken the position that Qwest should be required to provide this tandem service at TELRIC type prices. Their position is contrary to law and contrary to agreements reached in other states for the transit of wireless bound traffic.
- The legal framework surrounding the obligations of a tandem provider to an ILEC is covered under 47 U.S.C. § 259, which prohibits governmental requirements of tandem providers that are “economically unreasonable or contrary to the public interest.” 47 U.S.C. § 259(b)(1); 47 C.F.R. § 59.2(a).
- Qwest’s proposed rate is economically reasonable and market based. It is consistent with offerings from other tandem providers and covers Qwest’s costs.
- The MIC Companies have thus far not accepted Qwest’s offers of a permanent or interim solution.

## **BACKGROUND**

### **1. Wireline to Wireless Porting Obligations**

In 1996, Congress passed the Telecommunications Act which imposed a requirement that all local exchange carriers have the “duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the [FCC].” 47 U.S.C. § 251 (b)(2). Under the Act and the Commission’s rules, local number portability is defined

as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>2</sup>

The FCC released the Local Number Portability *First Report and Order* in 1996, which promulgated rules and deployment schedules for the implementation of number portability and indicated that number portability obligations would include intermodal porting between wireless and wireline carriers.<sup>3</sup> The FCC stated that “section 251(b) requires local exchange carriers to provide number portability to all telecommunications carriers, and thus to Commercial Mobile Radio Service (CMRS) providers as well as wireline service providers.”<sup>4</sup>

On November 10, 2003, the FCC issued an order requiring that wireline local exchange carriers offer local number portability for customers that wish to convert a land line phone number to a wireless provider. The order required that within the top 100 MSA’s, incumbent carriers must make wireline to wireless porting available by November 24, 2003. The FCC delayed the requirement for other areas until May 24, 2004.

## **2. Steps Taken by MIC Companies to Comply with FCC Order**

In order to comply with the directives of the FCC, local exchange carriers must be able to do two things: (1) have a switch that is capable of porting numbers; and (2) be able to route calls from the customer of the local exchange carrier to the wireless provider. The

---

<sup>2</sup> 47 U.S.C. § 153(30); 47 C.F.R. §52.21(k).

<sup>3</sup> Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (First Report and Order).

<sup>4</sup> *Id.* at 8431, para. 152.

petition of the ILECs seeks a temporary waiver of its obligation, purportedly based on a desire to obtain more favorable terms for routing ported calls. While Qwest has not reviewed the local exchange routing guide for all of the MIC Companies, at present, it appears that certain MIC Companies have not made the necessary switch upgrades to accomplish wireless porting. For example, the LERG does not reflect that Home Telephone and Cannon Valley are listed as having switches that are LNP capable. Thus, these companies may not be in a position to provide LNP because of their lack of appropriate facilities.

With respect to the second requirement, routing of traffic, local exchange companies have several options for routing such calls, including,

- Direct connections with the wireless company;
- Routing through the Onvoy access tandem;
- Routing through Qwest's tandem;
- Routing through another third party.

(See Exhibit 1). The distinguishing factor between these options is cost. It is important to note that the MIC Companies did not claim that routing through Qwest's tandem was the only *technically feasible* alternative; they stated that it was the *least expensive* alternative. Whether the MIC Companies route through the two available tandem providers, Onvoy (which is principally owned by MIC Companies) or Qwest, the tandem provider, would require ILECs to compensate them.

## DISCUSSION

### 1. Onvoy is a viable alternative for routing wireless LNP calls

Historically, predecessors to Qwest, Northwestern Bell and U S West had provided the majority of tandem switching functions in Minnesota. At that time Qwest and the ILECs had two-way trunks installed between the ILEC end offices and the Qwest tandems.

However, when Onvoy (formerly MEANS) was created, most members of the independent industry in Minnesota chose to remove Qwest as their tandem provider, and Onvoy began performing their tandem functions. At that point, the two-way trunks were converted to one-way common trunk groups carrying Qwest and other miscellaneous terminating traffic to the ILECs. Originating traffic from the Onvoy member companies to the world needed to transit the Onvoy tandem.

In fact, ONVOY is listed as the originating tandem for these companies in the LERG (Local Exchange Routing Guide). The LERG is the routing "bible" used within the telecommunications industry to document the proper routing of traffic. The LERG information runs counter to the claims made by Tom Burns that Qwest is the Access Tandem provider for most MIC Companies. For example, the table below lists LERG information for the first five end offices identified by MIC.

CARRIER	END OFFICE	ACCESS TANDEM LISTED IN 3/12/04 LETTER	Actual Originating Toll Tandem Listed in LERG	Owner of Actual Toll Tandem	Originating Local Tandem listed in LERG
Home Telephone	GDMDMNXG75G	ROCHMNRO12T	PLMOMNBN01T	MEANS/ONVOY	None
Cannon Valley Tel	MRTWMNXMDS0	OWTNMNOW12T	PLMOMNBN01T	MEANS/ONVOY	None
Cannon Valley Tel	BRCLMNXBDS0	OWTNMNOW12T	PLMOMNBN01T	MEANS/ONVOY	None
Farmers Mutual Tel	BLHMMNXB56G	STCDMNTO12T	PLMOMNBN01T	MEANS/ONVOY	None
Federated Tel	CHOKMNXCDS0	STCDMNTO12T	PLMOMNBN01T	MEANS/ONVOY	None

The MIC Companies claim that routing calls through Onvoy is not a viable alternative to them. They have alluded to three reasons why Onvoy is not a viable alternative: (1) Onvoy does not have a direct connection to the wireless providers; (2) technical hurdles prevent the MIC Companies from routing through Onvoy; and (3) such routing would be illegal. Each of these arguments is meritless and is being raised by the MIC Companies in an attempt to force Qwest to provide tandem transit service at economically unreasonable rates.

The fact that Onvoy does not have a direct connection with wireless companies is irrelevant. Onvoy does have a connection to the public switched telephone network. Once Onvoy sends a call on the network, it will be routed to its ultimate destination, including wireless carriers.

The MIC Companies have intimated that technical hurdles exist associated with routing through Onvoy, but have not detailed the alleged technical hurdles. Onvoy is listed as the tandem provider for most of the MIC Companies. Currently, Onvoy must be routing toll calls to the same wireless carriers for which the MIC Companies now seek to send wireless ported traffic. There is no technical limitation preventing this option. Qwest will serve discovery in an attempt to understand the MIC's claims in this regard.

Finally, Mr. Burns alleges that routing through Onvoy would be illegal. This argument is contrary to the position taken by the independents in the Dakota Telecom Complaint proceeding. In that case, the parties reached and the Commission approved, an agreement that included an option to route all traffic through an access tandem.

None of the purported objections to use of Onvoy survive close inspection. Indeed, one would think Onvoy would be a strong bidder for providing transit service to these

customers given their common ownership and the interest any tandem provider would have in providing this service.

## **2. Qwest as an alternative**

Qwest would like to earn the business from the MIC Companies of providing the transit traffic that they request and has offered an interim solution for the purpose of allowing the MIC Companies to route wireless LNP traffic within three weeks (Exhibit 2) and a long term agreement to pay Qwest for providing transit service for all transit traffic that the MIC Companies send through Qwest's tandem and for which Qwest currently receives no compensation, (Exhibit 3).<sup>5</sup>

The MIC Companies did not contact Qwest to request transit service until March 12, 2004, or over four months after the FCC Order and over seven years after the FCC issued its *First Report and Order* making clear that porting obligations would apply to wireless as well as wireline carriers.

From that time forward, Qwest has worked quickly to respond to the MIC's request.

The following timeline sets forth the relevant communications:

- March 12 – MIC consultant Tom Burns first contacts Qwest and follows up with additional information over the next few days. (Ex. 4A).
- March 18 – Qwest email identifies issues that would need to be addressed if Qwest were to provide the service. (Ex. 4B).
  - Agreement
  - Trunking established
- March 18 – Burns provides information and suggests solutions to issues raised by Qwest. (Ex. 4C).
- Friday, March 26 – Qwest reiterates the need to develop a contract and Burns requests a proposed contract. (Ex. 4D).

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<sup>5</sup> Exhibit 3 is a revised version of the agreement that the MIC Companies are receiving for the first time with this filing.

- April 7 – Qwest communicates that it is attempting to finalize a proposed contract and expects that it will take until the end of April due to a desire to provide the service on a 14 state basis. (Ex. 4E).
- April 14 - In response to a Burns inquiry, Qwest confirm it does want to provide the service and will send a draft contract by the end of April. (Ex 4F).
- Between April 14-19 – Burns orally indicates he is requesting service for all MIC Companies he represents, not just the five he identified in earlier communications. (Ex. 4).
- April 19 - Qwest requests information regarding all of the companies included in his request. (Ex. 4G).
- April 23 - Burns provides detail for the first time on the 106 trunks he is seeking to convert. (Ex. 4H).
- April 30 – Qwest sends draft agreement. (Ex. 4I).
- May 6 – MIC sends their version of a proposed CMRS transit services agreement. (Ex. 4J).
- May 7 - Qwest sends proposed interim agreement to allow transit of wireless LNP traffic and allows completion of trunking by May 24 deadline. (Ex. 4K).
- May 10 – MIC rejects interim arrangement and files with commission for extension. (Ex. 4L).
- May 20 – Commission grants temporary stay.
- May 24 – Qwest orally reiterates willingness to enter into temporary arrangement.

The MIC Companies have rejected Qwest's proposals and instead sought a waiver of the May 24 deadline imposed by the FCC. The MIC Companies have taken the position that Qwest is obligated to provide them with transit service and to do so at TELRIC rates. The MIC Companies cite no authority for this position. Indeed they cannot.

TELRIC pricing is a unique cost methodology for determining rates for unbundled network elements pursuant to Section 251 of the Act. There is no specific requirement under Section 251 of the Act for an incumbent local exchange carrier to provide transit services to *anyone*, let alone to ILECs. However, since EAS was begun prior to the Act, existing facilities (as discussed above) were already in place between small ILECs and Qwest. Once other carriers (wireless and wireline) began offering services and interconnecting with



Qwest's network, under both § 251 and § 332 of the Act, Qwest provided transit services where two way trunking existed and appropriate routing was in place, with originating carriers connecting under § 251/252 and § 332 and under rates, terms and conditions in the parties' interconnection agreements. However, Qwest has determined that ILECs are also using Qwest for transit services, with no agreement structure (other than isolated examples) in place and no compensation paid to Qwest by originating carriers.

In examining MIC's requests for transiting services, the appropriate legal framework of this request would be under § 259 of the Act, as its members are requesting, "public switched network infrastructure, technology, information, and telecommunications facilities and functions" *see generally FCC R&O on Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996, CC Docket No. 96-237*. If a carrier is a "qualifying carrier" under § 259(d), it is able to request the transit services. However, § 259(b)(1) also states that a local exchange carrier engaging in such infrastructure sharing is not required to take actions which are economically unreasonable. Thus, Qwest has proposed rates, terms and conditions that, in its business judgment, are economically reasonable. Qwest is also preparing to offer these services to other qualifying carriers throughout its territory, in order to ensure that carriers are treated on a nondiscriminatory basis.

MIC has failed to cite any alternate authority for its request, thus the sole legal framework is the § 259 agreement. Qwest has done nothing more than offer economically reasonable rates, terms and conditions, as it is entitled to do so under §259 and it had met its burden under § 259. MIC's position is that Qwest is required to continue to provide transit services free of charge, which is not supported by any applicable rules or law.

## CONCLUSION

Qwest Corporation does not object to the MIC Companies' request for an extension of the FCC deadline. Qwest hopes to provide the MIC Companies with transit service, but the MIC Companies have not requested and are not entitled to an order requiring Qwest to provide the service on economically unreasonable terms. Qwest respectfully requests that the Commission rule on the appropriateness of the MIC's extension request and then allow the MIC Companies to route wireless LNP traffic using any of the four options available to them. Qwest suggests that any attempt to force the price Qwest offers to the MIC Companies for transiting traffic to TELRIC pricing would be illegal and unnecessarily give MIC Companies an artificial device to force Qwest to provide service on economically unreasonable terms and conditions rather than negotiate a resolution with the tandem provider that they own. Qwest also suggests that any attempt to limit negotiations is unnecessary given that Qwest is willing to provide an interim arrangement until a more permanent agreement can be reached. In the event a more permanent agreement cannot be

reached, Qwest will take appropriate action to obtain compensation for the transiting functions it provides.

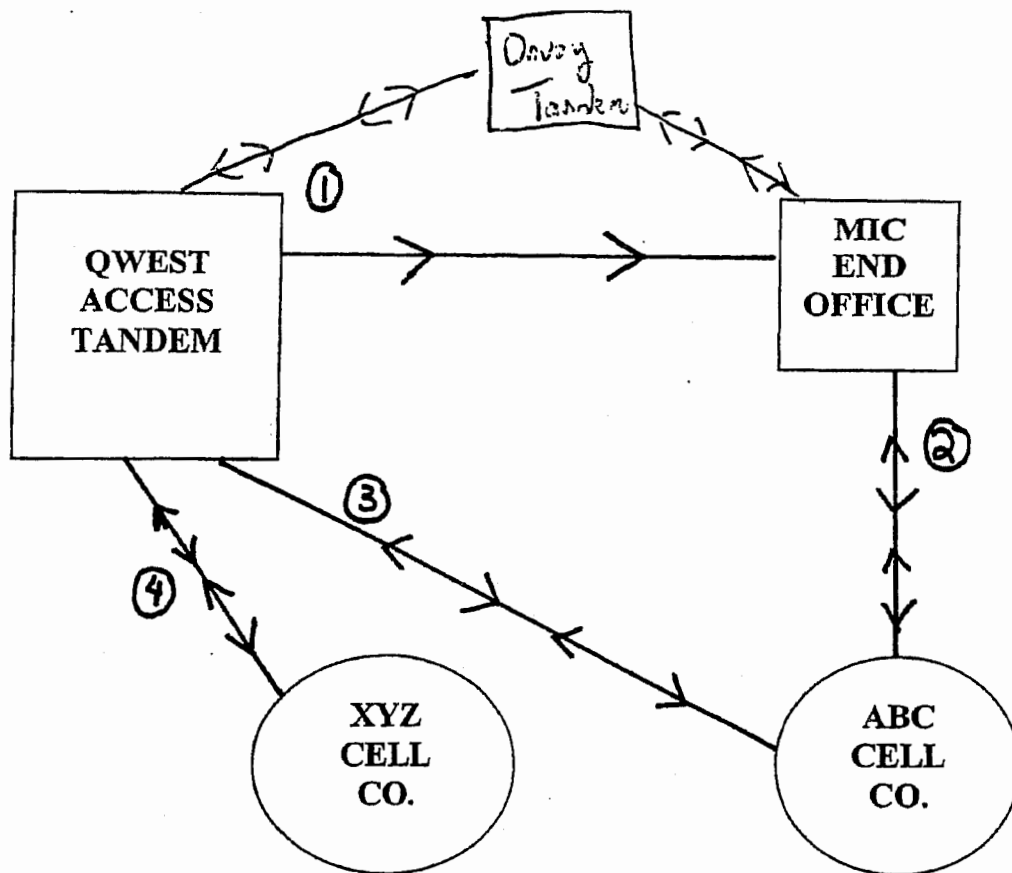
DATED: June 1, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jason D. Topp', is written over a horizontal line.

Jason D. Topp  
QWEST CORPORATION  
200 South Fifth Street, Room 2200  
Minneapolis, MN 55402  
(612) 672-8905 (telephone)  
(612) 672-8911 (facsimile)

Attorney for Qwest Corporation



1. Facility from Qwest Tandem to MIC – Today, this is one-way traffic.
2. Direct connection between ABC and MIC.
3. ABC is connected to the Qwest Tandem.
4. XYZ is connected to the Qwest Tandem.

**Exhibit 1**

This letter is to provide an interim measure for Qwest to provide Transit Service to ILECs for Wireless LNP while Qwest and such ILEC are currently negotiating a Transit Service Exhibit under 259 for all transit traffic in Minnesota.

While Qwest believes it is not under an obligation to provide transit service, Qwest is willing to provide such service to ILECs under a Transit Services Exhibit (the "Exhibit"), as part of an Infrastructure Sharing Master Services Agreement under 47 U.S.C. §259 (the "Agreement"). Since Qwest and such ILEC cannot finalize terms and conditions of the Exhibit and the Agreement in a timeframe to allow the ILECs to comply with the Wireless LNP order, Qwest is offering this interim measure for Transit Service for the Wireless LNP transit traffic.

This interim arrangement would begin effective May 7, 2004 and cease in 90 days should ILEC and Qwest not have a signed Agreement and Exhibit. Should ILEC and Qwest agree to and sign an Agreement and Exhibit, this Wireless LNP transit traffic would be included as a part of all transit traffic.

Since Qwest currently does not have the recording capability to record ILEC originated traffic transiting through Qwest's network to a third party, Qwest will bill ILEC based on that ILEC's actual transit minutes for Wireless LNP provided by the originating ILEC to Qwest on a monthly basis. Data are subject to audit by Qwest no more than once during this 90 day timeframe. These MOU will then be multiplied by the transit rate of \$.0089 per MOU. Each month Qwest will bill this amount to the ILEC. If the originating ILEC doesn't provide Qwest with data to bill, Qwest will bill a minimum charge of \$20 per month per ILEC in the rural area and a minimum charge of \$800 per month per ILEC in the Minneapolis/St. Paul metro area this is only for the 90 day timeframe and only for the ILEC originated transit usage related to Wireless LNP transit traffic. This interim method will be utilized until Qwest has actual originating transit routed traffic measurements available.

In order for Qwest to provision network modifications necessary for ILECs to provide Wireless LNP under this interim measure by a May 21, 2004 timeframe, Qwest will need from each ILEC a signed copy of this letter, 2/6 codes and accurate A-Z locations for each trunk group involved as soon as possible, but no later than close of business Tuesday, May 11, 2004 to ensure completion by the above mentioned timeframe. If this information is not sent to Qwest by close of business on Tuesday, May 11, 2004, Qwest will not be able to meet the May 21, 2004 timeframe for Wireless LNP network modifications and will not be in breach of this interim letter.

\_\_\_\_\_  
ILEC Company Name

Qwest

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

2/6 Code	A-Z Location

**MINNESOTA  
SERVICE EXHIBIT 5  
TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**1.0 TRANSIT SERVICES MINIMUM SERVICE TERM.**

The term of this Service Exhibit 5 shall commence upon the Effective Date of the Agreement (or an amendment hereto, as applicable) and remain in effect for the same period listed in Section 7 of the Qwest Infrastructure Sharing Master Services Agreement. Both parties shall provide the Transit Services, as further described herein, according to the terms and conditions of this Service Exhibit and the Master Services Agreement.

The Parties are incumbent local exchange carriers operating in certain respective communities which are located in adjacent, but not overlapping territories; the Parties do not compete against each other as local exchange carriers in those communities (collectively, the "Communities").

**OTHER TYPES OF INTERCONNECTION AND SERVICES EXCLUDED.** Nothing in this Agreement will be construed as granting to either party any collocation arrangements through either physical or virtual collocation ("Collocation"), any access to any unbundled network elements ("Unbundled Access"), or access to operational support systems ("OSS Access"), and nothing herein will be construed as waiving or limiting in any way any rights available to either party under the Act with respect to Collocation, Unbundled Access, OSS Access, or other matters, including, but not limited to, ancillary services such as signaling access to call-related databases, directory assistance, white pages directory listings, busy line verify/interrupt, toll and assistance operator services, LIDB, access to poles/ducts/conduits, rights-of-way, 800 and CMDS. The parties reserve the right to negotiate such matters in separate agreements.

This Transit Services Exhibit is intended solely for the use of ILEC for its operations which are the subject of the Agreement, including the certification that ILEC is a "qualifying carrier" as defined by 47 U.S.C. §259. As such, this Exhibit applies solely to the uses discussed herein, and use of the services in a manner contrary to the restrictions of use in Section 2.0 shall be a material breach of the Exhibit and the Agreement.

Either Party may terminate this Transit Services Exhibit upon 90 day written notice to the other Party. Upon termination Parties agree that Transit Services between Parties will be terminated.

**2.0 TRANSIT SERVICES.**

Transit Service will be provided at each Party's local and access tandem switches, end offices providing local tandem functionality and end offices providing routing due to an unqueried call ported to another local services provider.

The Party originating the traffic acknowledges that it is its responsibility to enter into arrangements with each third party LEC, ILEC, CLEC, Co-Provider or CMRS for the exchange of transit traffic from such originating party and for the billing to the originating carrier for such exchange.

Each Party originating transit traffic acknowledges that the other Party has no responsibility to pay any third party LEC, ILEC, CLEC, Co-Provider or CMRS charges for termination of any transit traffic from such originating Party. Neither Party will default bill the other Party for unidentified traffic that neither Party can identify, which terminates on their respective networks, unless otherwise provided for in this Agreement. In the event that one Party can identify the traffic, and the other Party requests the transit records, the Parties will negotiate a separate agreement for the provision of those transit records.

Parties will not pay switched access on local calls in either direction between Parties and any third party LEC, ILEC, CLEC, Co-Provider or CMRS when local calls are routed through an access tandem.

**3.0 NETWORK RESPONSIBILITIES.**

If the traffic volumes between any two (2) end office switches including other ILEC, CLEC and CMRS switches, at anytime exceeds the centum call second ("CCS") busy hour equivalent of one (1) DS1 (512 CCS), the Parties will, within sixty (60) days of such occurrence, establish a new direct trunk group to the applicable end office(s) consistent with the grades of service and quality parameters set forth in this Exhibit.

Only those valid NXX codes served by an end office may be accessed through a direct connection to that end office

It shall be the responsibility of each Party to program and update its own Switches and network systems pursuant to the Local Exchange Routing Guide (LERG) to recognize and route traffic to the other Party's assigned NXX or NXX-X codes. Neither Party shall impose any fees or charges on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.

Each Party is responsible for administering numbering resources assigned to it. Each Party will cooperate to timely rectify inaccuracies in its LERG data. Each Party is responsible for updating the LERG data for NXX codes assigned to its End Office Switches. Each Party shall use the LERG published by Telcordia or its successor for obtaining routing information

**MINNESOTA  
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INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

and shall provide through an authorized LERG input agent, all required information regarding its network for maintaining the LERG in a timely manner.

To the extent available, the parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in applicable industry standards including ISDN user part ("ISUP") for trunk signaling and transaction capabilities application part ("TCAP") for common channel signaling based features in the interconnection of their networks.

**4.0 OBLIGATIONS OF BOTH PARTIES.**

Parties will provide and maintain the equipment and facilities necessary to permit each other to furnish the services for which the Parties contract.

Parties will provision appropriate trunking to access tandems, local tandems and/or end offices with local tandem functionality, this includes but not limited to provisioning trunking with appropriate traffic use codes.

Parties shall have no obligation to supply a Service where facilities or technical abilities are limited.

**5.0 CHARGES AND PAYMENTS FOR TRANSIT SERVICES.**

The charge for the Transit Services provided by each Party under this Service Exhibit is reciprocal and listed in Schedule A, attached hereto and incorporated herein by reference.

The charges listed in Schedule A shall be subject to adjustment upon sixty (60) days prior written notice by either Party and shall remain reciprocal.

Parties shall be obligated to pay all applicable charges as set forth herein for Transit Services provided by the other Party.

Transit Provider will track usage and bill the originator of the traffic, and the originator of the traffic shall be responsible for and will pay the Transit Provider for all Rates and charges applicable to the calls placed to third party's end users.

Until such time that Qwest has the ability to record the originating traffic, the Parties agree to implement the interim transit charge provisions on Schedule B. When Qwest has actual recordings of originating transit usage available, Qwest will bill transit charges based on Qwest's recording of transit traffic usage.

A completed call shall be computed, calculated and recorded in accordance with the methods and practices of Transit Provider and the operating capacity and ability of Transit Provider's measuring equipment.

The originator of the traffic will pay the Transit Provider for transit traffic at the reciprocal rates specified in Schedule A. It is the responsibility of the originator of the traffic to provide billing information to the third party assuming that recording capabilities exist to obtain that measured data.

If, due to equipment malfunction or other error, Transit Provider does not have available the necessary information to compile an accurate billing statement, Transit Provider may render a reasonably estimated statement, but shall notify originator of the traffic of the methods of such estimate and cooperate in good faith with originator of the traffic to establish a fair, equitable estimate. Transit Provider shall render a statement reflecting actual billable quantities when and if the information necessary for the billing statement becomes available.

**6.0 DEFINITIONS.**

"Act", as used in this Exhibit, means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.

"Ancillary Traffic", includes all traffic destined for ancillary services, or that may have special billing requirements, including but not limited to the following: Directory assistance, 911/E911, Operator call termination (busy line interrupt and verify), 800/888, LIDB, and Information services requiring special billing.

"Co-Provider" means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent Local Exchange Carrier ("LEC").

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SERVICE EXHIBIT 5  
TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

"Incumbent Local Exchange Carrier" (ILEC), as used in this Exhibit, means with respect to an area, the LEC that: (1) on February 8, 1996, provided Telephone Exchange Service in such area; and (2) (i) on February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to § 69.601 (b) of the FCC's regulations; or (ii) is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in clause (i) of this paragraph.

"Local Exchange Carrier" (LEC), as used in this Exhibit, means any person that is engaged in the provision of Telephone Exchange Service or Exchange Access Service.

"Transit Provider", as used in this Exhibit means the Party that is providing the Transit Service.

"Transit Service" as used in this Exhibit is Transit traffic which is any traffic that originates from one (1) Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network. For purposes of the Agreement, transit traffic does not include traffic carried by Interexchange Carriers or traffic originated by Qwest when acting as a toll provider. Interexchange Carriers' traffic is defined as Jointly Provided Switched Access. Transit service is provided by Qwest at local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider, to ILEC to enable the completion of calls originated by or terminated to another Telecommunications Carrier (e.g. a CLEC, an ILEC, an exiting LEC, a co-provider, or a wireless Carrier), which is connected to Qwest's local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider. To the extent that ILEC's Switch functions as a local or Access Tandem Switch, ILEC may also provide transit service to Qwest.



**MINNESOTA  
SERVICE EXHIBIT 5  
TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**SCHEDULE A  
QWEST TRANSIT CHARGE**

TRANSIT RATE	\$ .0065 Per MOU
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**MINNESOTA  
SERVICE EXHIBIT 5  
TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**Schedule B  
Interim Transit Charge  
MINNESOTA**

Since Qwest currently does not have the recording capability to record ILEC originated traffic transiting through Qwest's network to a third party, Qwest will bill ILEC based on that ILEC's actual transit minutes provided by the originating ILEC to Qwest on a monthly basis. Data is subject to audit by Qwest no more than twice per year. These MOU will then be multiplied by the transit rate shown on Schedule A. Each month Qwest will bill this amount to the ILEC. If the originating ILEC doesn't provide Qwest with data to bill, Qwest will bill a minimum charge of \$180 per month per ILEC in the rural area and a minimum charge of \$4500 per month per ILEC in the metro area. This interim method will be utilized until Qwest has actual originating transit routed traffic measurements available.

# OLSEN THIELEN & Co., LTD.

*Certified Public Accountants & Consultants*

775 Prairie Center Dr.  
Suite 480  
Eden Prairie, MN 55344

March 12, 2004

QWEST  
Sharon Kampschroer  
150 So 5th St., Suite 510  
Minneapolis, MN

Re: Routing Wireless Ported Traffic Via Qwest Trunk Groups

Dear Sharon,

I am writing on behalf of the Minnesota Independent Coalition (MIC) regarding the implementation wireline-to-wireless local number portability (LNP). Specifically, MIC requests that Qwest accept traffic from MIC companies for ported numbers (ported from MIC companies to wireless carriers) via existing ILEC-Qwest trunk groups at Qwest access tandems in Minnesota. Most MIC members subtend Qwest's access tandems for terminating traffic, and subtend Onvoy's Centralized Equal Access tandem for originating toll traffic. This ported wireless LNP traffic will be rated as local to the end user. The trunk group may need reconfiguration as two-way a group to accommodate wireless LNP implementation.

Please specify the interval needed for Qwest to modify the trunk groups to accept wireline-to-wireless ported traffic from the following MIC companies:

CARRIER	END OFFICE	ACCESS TANDEM
Home Telephone	GDMDMNXG75G	ROCHMNRO12T
Cannon Valley Tel	MRTWMNXMDS0	OWTNMNOW12T
Cannon Valley Tel	BRCLMNXBDS0	OWTNMNOW12T
Farmers Mutual Tel	BLHMMNXB56G	STCDMNT012T
Federated Tel	CHOKMNXCDS0	STCDMNT012T

If you have any questions regarding the attached please call me at (952)-829-3419.

Sincerely,

Thomas G. Burns

cc: Cecilia Ray  
Kevin Beyer  
Loretta Johnson  
Greg Turgeon

## Exhibit 4A

Associated World-Wide with Jeffreys Henry International (JHI)

Flagship Corporate Center, 775 Prairie Center Drive, Ste. 480, Eden Prairie, Minnesota 55344 952 941 9242 FAX 952 941 0577  
323 Little Canada Road, St. Paul, Minnesota 55117 651 483 4521 FAX 651 483 2467

**Kampschroer, Sharon**

---

**From:** Hahn, Dave  
**Sent:** Thursday, March 18, 2004 8:04 AM  
**To:** 'Tom Burns'  
**Cc:** Kampschroer, Sharon; Melichar, Ed  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Tom: This is in response to your attached email. Since this is not toll traffic, Qwest would not transit this traffic through a toll tandem. If Qwest were to provide this transit traffic, several issues would need to be addressed: An agreement would need to be developed, trunking established from your clients switch to the appropriate Qwest Switch to terminate traffic to the wireless providers, installation of trunk monitoring equipment to measure this usage, and preparation of a billing system to bill your clients for the transit traffic usage.

I would assume that this is one of the first situations with wireless LNP and would probably suggest that Onvoy establish trunks to wireless providers to terminate this type of transit traffic. I would also assume that your clients and Onvoy have a billing mechanism developed to handle this type of traffic.

Dave Hahn

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Monday, March 15, 2004 9:39 AM  
**To:** Hahn, Dave  
**Cc:** Kampschroer, Sharon; turg@hmtel.com; rayc@moss-barnett.com  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Dave,

Attached is the original memo sent to Sharon K. A network diagram showing the call flow for ported traffic is also attached. MIC members expect to route this traffic to Qwest's tandems because 1) this is not toll traffic; and 2) wireless carriers are not interconnected to the Onvoy tandem.

Please call me if you have any questions regarding the attached.  
Tom B  
952.829.3419

-----Original Message-----

**From:** Kampschroer, Sharon [mailto:Sharon.Kampschroer@qwest.com]  
**Sent:** Friday, March 12, 2004 3:37 PM  
**To:** Tom Burns  
**Cc:** Hahn, Dave  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Tom,

To make sure Qwest understands your request could you please send a diagram of how the MIC

**Exhibit 4B**

5/19/04

company would send the wireless LNP traffic vs all other traffic and where in the process would the LNP Query occur. Why do the MIC companies want to separate the wireless LNP traffic from all other traffic going to Onvoy? I am going to be out of the office next week so if you would please send the diagram to Dave Hahn so Qwest can get a answer back to you as soon as possible.  
Dave Hahn's email address is [dave.hahn@qwest.com](mailto:dave.hahn@qwest.com)

Thank You!

Sharon Kampschroer  
Service Manager  
Qwest Communications  
612-359-5110

-----Original Message-----

**From:** Tom Burns [mailto:[tgburns@olsen-thielen.com](mailto:tgburns@olsen-thielen.com)]  
**Sent:** Friday, March 12, 2004 1:46 PM  
**To:** [skampsc@qwest.com](mailto:skampsc@qwest.com)  
**Cc:** [loretta@cvtel.net](mailto:loretta@cvtel.net); Kevin Beyer (E-mail); [turg@hmtel.com](mailto:turg@hmtel.com); [rayc@moss-barnett.com](mailto:rayc@moss-barnett.com)  
**Subject:** WLNP Traffic and Qwest Tandem-End Office Trunks

Sharon,  
Per hour discussion, please get back to me as soon as possible on this request.

Tom B  
<<MIC-Qwest Ltr re WLNP Impl 031204.doc>>

Thomas Burns  
Senior Telecommunications Consultant  
Olsen Thielen & Co., Ltd.  
775 Prairie Center Drive  
Suite 480  
Eden Prairie, MN 55344  
952.829.3419 voice  
952.400.8798 eFax

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**Kampschroer, Sharon**

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**From:** Tom Burns [tgburns@olsen-thielen.com]  
**Sent:** Thursday, March 18, 2004 5:22 PM  
**To:** Hahn, Dave  
**Cc:** Kampschroer, Sharon; Melichar, Ed; rayc@moss-barnett.com; Tom Farm  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Dave,  
In response to your email:

**Trunk Groups, Tandems, Routing of WLNP Ported Traffic:**

Qwest terminates CMRS traffic to MIC member end offices via its access tandems and the common trunk group. The trunk groups and tandems that are in place will be used to provide the transit wireline-to-wireless traffic. Directionality on the trunk groups may need to be addressed in some cases, and that is the purpose of my query - how long will it take Qwest to allow two-way traffic for ported traffic due to WLNP?

**Onvoy Tandem vs Qwest Tandem:**

Onvoy's switch is used by MIC members to access the Centralized Equal Access functionality, and is not used for local (non-toll) traffic. Onvoy's switch is not used to exchange non-toll traffic with wireless carriers. I have spoken to Paul Hoff (Onvoy) and there are currently no plans for Onvoy to handle this non-toll traffic. Conversely, QWest switches are currently used for the exchange of wireless traffic.

**Recording, Usage Reports/Data:**

Regarding Qwest's need for usage data, MIC member end offices can record the usage associated with WLNP ported traffic. This end office translations to establish recordings can be set up as when installing LNP in the switch. MIC is willing to discuss the provision of these usage reports to Qwest for billing to the wireless carriers.

Many MIC members have received bona fide requests for LNP and are facing the FCC's May 24, 2004 deadline. To the extent network modifications (changing one-way groups to two-way groups) are needed, please research the time Qwest needs to convert one-way versus two-way capability for the trunk groups identified in my letter.

Thank you,  
Tom B

**-----Original Message-----**

**From:** Hahn, Dave [mailto:Dave.Hahn@qwest.com]  
**Sent:** Thursday, March 18, 2004 8:04 AM  
**To:** Tom Burns  
**Cc:** Kampschroer, Sharon; Melichar, Ed  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Tom: This is in response to your attached email. Since this is not toll traffic, Qwest would not transit this traffic through a toll tandem. If Qwest were to provide this transit traffic, several issues would need to be addressed: An agreement would need to be developed, trunking established from your clients switch to the appropriate Qwest Switch to terminate traffic to the wireless providers, installation of trunk monitoring equipment to measure this usage, and preparation of a billing system to bill your clients for the transit traffic usage.

I would assume that this is one of the first situations with wireless LNP and would probably suggest that Onvoy establish trunks to wireless providers to terminate this type of transit traffic. I would also assume that your clients and Onvoy have a billing mechanism developed to handle this type of traffic.

**Exhibit 4C**

Dave Hahn

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Monday, March 15, 2004 9:39 AM  
**To:** Hahn, Dave  
**Cc:** Kampschroer, Sharon; turg@hmtel.com; rayc@moss-barnett.com  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Dave,

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Please call me if you have any questions regarding the attached.

Tom B  
952.829.3419

-----Original Message-----

**From:** Kampschroer, Sharon [mailto:Sharon.Kampschroer@qwest.com]  
**Sent:** Friday, March 12, 2004 3:37 PM  
**To:** Tom Burns  
**Cc:** Hahn, Dave  
**Subject:** RE: WLNP Traffic and Qwest Tandem-End Office Trunks

Tom,

To make sure Qwest understands your request could you please send a diagram of how the MIC company would send the wireless LNP traffic vs all other traffic and where in the process would the LNP Query occur. Why do the MIC companies want to separate the wireless LNP traffic from all other traffic going to Onvoy? I am going to be out of the office next week so if you would please send the diagram to Dave Hahn so Qwest can get a answer back to you as soon as possible. Dave Hahn's email address is [dave.hahn@qwest.com](mailto:dave.hahn@qwest.com)

Thank You!

Sharon Kampschroer  
Service Manager  
Qwest Communications  
612-359-5110

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Friday, March 12, 2004 1:46 PM  
**To:** skampsc@qwest.com  
**Cc:** loretta@cvtel.net; Kevin Beyer (E-mail); turg@hmtel.com; rayc@moss-barnett.com  
**Subject:** WLNP Traffic and Qwest Tandem-End Office Trunks

Sharon,

Per hour discussion, please get back to me as soon as possible on this request.

5/19/04

Tom B  
<<MIC-Qwest Ltr re WLNP Impl 031204.doc>>

Thomas Burns  
Senior Telecommunications Consultant  
Olsen Thielen & Co., Ltd.  
775 Prairie Center Drive  
Suite 480  
Eden Prairie, MN 55344  
952.829.3419 voice  
952.400.8798 eFax

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**Kampschroer, Sharon**

---

**From:** Tom Burns [tgburns@olsen-thielen.com]  
**Sent:** Friday, March 26, 2004 8:58 PM  
**To:** Kampschroer, Sharon  
**Cc:** Hahn, Dave; Nodland, Jeff; Lords, Jeff; Doty, Deb; Stulen, Sandra; Melichar, Ed; Staebell, Tom; rayc@moss-barnett.com  
**Subject:** RE: TRANSIT SERVICES

Sharon,  
Please send a copy of the proposed agreement including rates. Also, please repond as soon as possible to my letter's request estimates of time frames, etc.

Thank you,

Tom B

-----Original Message-----

**From:** Kampschroer, Sharon [mailto:Sharon.Kampschroer@qwest.com]  
**Sent:** Friday, March 26, 2004 3:54 PM  
**To:** Tom Burns  
**Cc:** Hahn, Dave; Nodland, Jeff; Lords, Jeff; Doty, Deb; Stulen, Sandra; Melichar, Ed; Staebell, Tom  
**Subject:** TRANSIT SERVICES

Hello Tom,

In order to provide transit services Qwest will require each MIC Company to sign an Exhibit as part of the Qwest Infrastructure Sharing Master Services Agreement. As part of providing this transit function, Qwest will be expecting compensation from each one of the MIC companies. All terms and conditions for this transit service will be spelled out in the exhibit.

Let me know if you have any questions.

Sharon Kampschroer  
Service Manager  
Qwest Communications  
612-359-5110

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**Exhibit 4D**

5/19/04

**Kampschroer, Sharon**

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**From:** Kampschroer, Sharon  
**Sent:** Wednesday, April 07, 2004 3:24 PM  
**To:** 'Tom Burns'  
**Cc:** Hahn, Dave; Nodland, Jeff; Lords, Jeff; Doty, Deb; Stulen, Sandra; Melichar, Ed; Staebell, Tom; rayc@moss-barnett.com  
**Subject:** RE: TRANSIT SERVICES

Tom,

Qwest is in the process of developing the Transit Service to all ILECS in the 14 states, therefore Qwest does not have an exhibit to the Master Services Agreement to send to you at this time. Qwest hopes to finalize the Transit Service and send the exhibit to you by the end of April. Once the exhibit is signed by both Qwest and the MIC Companies, Qwest will be able to give you a date when the network modifications (changing one-way to two-way groups) can be implemented.

Sharon  
Kampschroer  
Service Manager - Qwest  
Communications  
612-359-5110

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Friday, March 26, 2004 8:58 PM  
**To:** Kampschroer, Sharon  
**Cc:** Hahn, Dave; Nodland, Jeff; Lords, Jeff; Doty, Deb; Stulen, Sandra; Melichar, Ed; Staebell, Tom; rayc@moss-barnett.com  
**Subject:** RE: TRANSIT SERVICES

Sharon,  
Please send a copy of the proposed agreement including rates. Also, please repond as soon as possible to my letter's request estimates of time frames, etc.

Thank you,

Tom B

-----Original Message-----

**From:** Kampschroer, Sharon [mailto:Sharon.Kampschroer@qwest.com]  
**Sent:** Friday, March 26, 2004 3:54 PM  
**To:** Tom Burns  
**Cc:** Hahn, Dave; Nodland, Jeff; Lords, Jeff; Doty, Deb; Stulen, Sandra; Melichar, Ed; Staebell, Tom  
**Subject:** TRANSIT SERVICES

Hello Tom,

In order to provide transit services Qwest will require each MIC Company to sign an Exhibit as part of the Qwest Infrastructure Sharing Master Services Agreement. As part of providing this transit function, Qwest will be expecting compensation from each one of the MIC companies. All terms and conditions for this transit service will be spelled out in the exhibit.

Let me know if you have any questions.

Sharon Kampschroer  
Service Manager

**Exhibit 4E**

5/19/04

Qwest Communications  
612-359-5110

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**Kampschroer, Sharon**

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**From:** Topp, Jason  
**Sent:** Wednesday, April 14, 2004 11:08 AM  
**To:** Kampschroer, Sharon; Hahn, Dave; Nodland, Jeff; Lords, Jeff; Doty, Deb; Stulen, Sandra; Melichar, Ed; Staebell, Tom  
**Subject:** FW: MIC Memo re Qwest Tandems and Wireless LNP

-----Original Message-----

**From:** Topp, Jason  
**Sent:** Wednesday, April 14, 2004 11:07 AM  
**To:** 'Tom Burns'; Jason Topp (jtopp@qwest.com)  
**Cc:** rayc@moss-barnett.com; Tom Farm  
**Subject:** RE: MIC Memo re Qwest Tandems and Wireless LNP

Tom:

The obligation to provide wireless LNP has existed for years. The May 24 deadline for completing wireless LNP has been in place since November 10, 2003. Your clients first contacted Qwest about this issue on March 12, 2004. While Qwest is not under an obligation to provide transit service to your clients for this purpose, it would like to provide the service.

The late request from your clients has forced Qwest to move very quickly to develop a product that allows use of the access tandem for such traffic. The economics of providing this service needed to be analyzed. Technical issues need to be addressed, contract language needs to be determined, billing has to be arranged, and pricing needs to be established. This is a lot of work to complete in a short time frame and could have been handled in a more proactive fashion had your clients contacted Qwest earlier.

Nevertheless, Qwest is working diligently to be able to provide the service in time to allow your clients to meet the May 24 deadline. We do not believe, however, that we will be able to provide contract language with all of the appropriate terms as well as pricing before the end of April. We will get the contract language out sooner if at all possible.

I need to correct your inference that Qwest would be responsible for blocking traffic to wireless providers if these arrangements are not completed on time. Your clients have other options for routing this traffic, including reaching agreement for Onvoy to route this traffic or direct connecting with wireless providers.

We hope to work closely with your clients to resolve this issue despite the short time frames you face. We think it will be possible to complete network reconfigurations provided we can sign the contract by May 7.

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Monday, April 12, 2004 12:45 PM  
**To:** Jason Topp (jtopp@qwest.com)  
**Cc:** rayc@moss-barnett.com; Tom Farm  
**Subject:** MIC Memo re Qwest Tandems and Wireless LNP

Jason,

As discussed.

Tom B  
<<MIC Memo to Jason Topp v2 041204.doc>>

**Exhibit 4F**

4/26/04

Thomas Burns  
Senior Telecommunications Consultant  
Olsen Thielen & Co., Ltd.  
775 Prairie Center Drive  
Suite 480  
Eden Prairie, MN 55344  
952.829.3419 voice  
952.400.8798 eFax

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**Kampschroer, Sharon**

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**From:** Topp, Jason  
**Sent:** Monday, April 19, 2004 4:12 PM  
**To:** 'Tom Burns'; Jason Topp (jtopp@qwest.com)  
**Cc:** rayc@moss-barnett.com; Tom Farm; Kampschroer, Sharon; Stulen, Sandra; Hahn, Dave; Staebell, Tom  
**Subject:** RE: MIC Memo re Qwest Tandems and Wireless LNP

Tom - following up on our discussion today, please provide me with the following information for the additional ILECs that want this service:

1. The name of the ILEC
2. ILEC end office switch
3. ILEC access tandem
4. ILEC OCN

I would also appreciate a description of services you allege that Qwest is providing to Frontier, Citizens and others others that you claim is the same as the service being requested here. My clients do not understand that contention.

**Exhibit 4G**

4/26/04

**Kampschroer, Sharon**

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**From:** Topp, Jason  
**Sent:** Friday, April 23, 2004 2:52 PM  
**To:** Kampschroer, Sharon; Stulen, Sandra; Hahn, Dave; Staebell, Tom  
**Subject:** FW: MIC Request RE WLNP to Enable Trunks

Please see the attached memo from Tom Burns relating to this issue.

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Friday, April 23, 2004 2:37 PM  
**To:** Jason Topp (jtopp@qwest.com)  
**Cc:** rayc@moss-barnett.com; Tom Farm  
**Subject:** MIC Request RE WLNP to Enable Trunks

Jason,

See the attached. If you have questions, please call me.

Tom B

Thomas Burns  
Senior Telecom Consultant  
Olsen Thielen & Co., Ltd.  
952.829.3419 voice  
952.400.8798 efax  
[tgburns@olsen-thielen.com](mailto:tgburns@olsen-thielen.com)

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**Exhibit 4H**

4/26/04

# OLSEN THIELEN & CO., LTD.

*Certified Public Accountants & Consultants*

## MEMO

Date: April 23, 2004  
To: Jason Topp  
From: Tom Burns  
cc: Ceelia Ray; Tom Farm  
Subject: Network Reconfiguration Needed to Implement Wireless Local Number Portability

---

As discussed in my prior memo and also on our call on Monday, MIC has asked Qwest to ensure that trunk groups to MIC member offices are two-way and capable of routing ported wireline-to-wireless traffic to wireless carriers.

My preliminary research indicates there are 105 trunk groups which require translations at the Qwest tandem to allow routing of ported wireline to wireless traffic (See Attachment 1). The work can be summarized as follows, provided all groups identified actually require translations.

Tandem	Trunk Groups
DLTHMNME12T	5
FARGNDBC12T	10
GDFRNDBC12T	7
MPLSMNDT12T	13
OWTNMNOW12T	13
ROCHMNRO12T	8
STCDMNT012T	16
WADNMNWA12T	20
WNDMMNWI12T	13
	<hr/> 105

While MIC does not agree with some of the issues raised in your email and in our discussions, it is heartening that Qwest wants to provide the transit service identified. MIC asks that Qwest implement the network changes now and work on the contractual and compensation issues later – enabling us to meet the May 24<sup>th</sup> implementation of LNP for MIC members.

It may be appropriate to establish a testing schedule with each of the LECs to ensure wireline-to-wireless traffic can indeed flow through the Qwest tandem.

If you would like to discuss this matter further, please call me at 952.829.3419.

*Associated World-Wide with Jeffreys Henry International (JHI)*

Flagship Corporate Center, 775 Prairie Center Drive, Ste. 480, Eden Prairie, Minnesota 55344 952 941 9242 FAX 952 941 0577  
223 Little Canada Road, St. Paul, Minnesota 55117 651 483 4521 FAX 651 483 2467



As requested, below is a listing of MIC members offices which subtend Qwest access tandems as shown. Please ensure the Qwest tandem is capable of accepting 10-digit calls from the MIC member end offices destined for a CMRS which also subtends the access tandem.

Where host-remote configurations exist I have only shown the host offices. Please contact me at 952.829.3419 if there are questions regarding company-specific network configurations.

OCN	Name	End Office/CLLI	Tandem
1357	BLACKDUCK TELEPHONE CO.	ASRVMNXARS0	DLTHMNME12T
1374	ARROWHEAD COMMUNICATIONS CORP.	CTTNMNXCDS0	DLTHMNME12T
1451	PAUL BUNYAN RURAL TELEPHONE COOP	DRVMNXXDS0	DLTHMNME12T
1453	PEOPLES TELEPHONE CO. MN	BGFKMNXBDS0	DLTHMNME12T
1500	NORTHERN TELEPHONE CO. OF MINNESOTA	WAWNMNXADS0	DLTHMNME12T
1353	CITY OF BARNESVILLE TELEPHONE UTILITY	BRVIMNXB35G	FARGNDBC12T
1391	FELTON TELEPHONE CO., INC.	FETNMNXFDS0	FARGNDBC12T
1401	HALSTAD TELEPHONE CO.	BYLDMNXB89G	FARGNDBC12T
1401	HALSTAD TELEPHONE CO.	HLSTMNXH45G	FARGNDBC12T
1401	HALSTAD TELEPHONE CO.	HLSTMNXH45G	FARGNDBC12T
1443	LORETEL SYSTEMS, INC.	ADA MNXADS0	FARGNDBC12T
1443	LORETEL SYSTEMS, INC.	ADBNMNXADS0	FARGNDBC12T
1474	ROTHSAY TELEPHONE CO., INC.	RTHSMNXRDS0	FARGNDBC12T
1512	WOLVERTON TELEPHONE CO. - MN	WVTNMNXWDS0	FARGNDBC12T
4300	RED RIVER RURAL TEL ASSN. - MN	ABRCNDXADS0	FARGNDBC12T
1395	GARDEN VALLEY TELEPHONE CO.	BLTRMNXBDS0	GDFRNDBC12T
1395	GARDEN VALLEY TELEPHONE CO.	RLFLMNXR25G	GDFRNDBC12T
1395	GARDEN VALLEY TELEPHONE CO.	WNGRMNXWDS0	GDFRNDBC12T
1505	WIKSTROM TELEPHONE CO., INC.	GNBSMNXGDS0	GDFRNDBC12T
1505	WIKSTROM TELEPHONE CO., INC.	KRLSMNXKDS0	GDFRNDBC12T
1505	WIKSTROM TELEPHONE CO., INC.	RSVTMNXRDS0	GDFRNDBC12T
1505	WIKSTROM TELEPHONE CO., INC.	WNSKMNXWDS0	GDFRNDBC12T
1362	BRIDGE WATER TELEPHONE CO.	MNTIMNXM29G	MPLSMNDT12T
1386	ECKLES TELEPHONE CO.	NWPRMNXN01T	MPLSMNDT12T
1409	HUTCHINSON TELEPHONE CO.	HTSNMNXHDS0	MPLSMNDT12T
1414	LAKEDALE TELEPHONE CO.	ANDLMNXB27G	MPLSMNDT12T
1414	LAKEDALE TELEPHONE CO.	MPLKMNXA96G	MPLSMNDT12T
1414	LAKEDALE TELEPHONE CO.	MTRSMNXB67G	MPLSMNDT12T
1414	LAKEDALE TELEPHONE CO.	MTRSMNXB67G	MPLSMNDT12T
1414	LAKEDALE TELEPHONE CO.	PVVLNMXF24G	MPLSMNDT12T
1482	SHERBURNE COUNTY RURAL TELEPHONE CO.	BCKRMNXADS0	MPLSMNDT12T
1482	SHERBURNE COUNTY RURAL TELEPHONE CO.	BGLKMNXA26G	MPLSMNDT12T
1482	SHERBURNE COUNTY RURAL TELEPHONE CO.	ZMMNMNXADS0	MPLSMNDT12T
1483	SLEEPY EYE TELEPHONE CO.	GODHMNXG92G	MPLSMNDT12T
1507	WINSTED TELEPHONE CO.	NWLNMNXNDS0	MPLSMNDT12T
1338	WINNEBAGO COOP. TELEPHONE ASSN. - MN	LKMLIAXODS0	OWTNMNOW12T
1358	BLUE EARTH VALLEY TELEPHONE CO.	BLERMNXB52G	OWTNMNOW12T
1358	BLUE EARTH VALLEY TELEPHONE CO.	WLLSMNXWDS0	OWTNMNOW12T
1380	DELAVAN TELEPHONE CO.	BLERMNXB52G	OWTNMNOW12T
1381	DUNNELL TELEPHONE CO., INC.	DNNLMNXD69S	OWTNMNOW12T
1384	EASTON TELEPHONE CO.	BLERMNXB52G	OWTNMNOW12T
1399	GRANADA TELEPHONE CO.	GRADMNXGDS0	OWTNMNOW12T
1422	LONSDALE TELEPHONE CO., INC.	LNDLMNXB74G	OWTNMNOW12T
1426	MANCHESTER - HARTLAND TELEPHONE CO.	MNCHMNXMDS0	OWTNMNOW12T
1437	MINNESOTA LAKE TELEPHONE CO.	MNLKMNXM46G	OWTNMNOW12T
1440	CANNON VALLEY TELECOM, INC.	BRCLMNXBDS0	OWTNMNOW12T
1440	CANNON VALLEY TELECOM, INC.	BRCLMNXBDS0	OWTNMNOW12T
1440	CANNON VALLEY TELECOM, INC.	MRTWMNXMDS0	OWTNMNOW12T
1440	CANNON VALLEY TELECOM, INC.	MRTWMNXMDS0	OWTNMNOW12T
1345	ACE TELEPHONE ASSOCIATION - MINNESOTA	HSTNMNXHDS0	ROCHMNR012T
1404	HARMONY TELEPHONE CO.	HRMYMNXHDS0	ROCHMNR012T
1408	HOME TELEPHONE CO.	GDMDMNXGDS0	ROCHMNR012T
1412	KASSON & MANTORVILLE TELEPHONE CO.	KSSNMNXK63G	ROCHMNR012T
1421	MABEL COOPERATIVE TELEPHONE CO. - MN	MABLMNXM49G	ROCHMNR012T

OCN	Name	End Office/CLLI	Tandem
1454	PINE ISLAND TELEPHONE CO.	PNISMNXBDS0	ROCHMNR012T
1485	SPRING GROVE COOP. TELEPHONE CO.	SPGVMNXSDS0	ROCHMNR012T
1515	ZUMBROTA-TELEPHONE CO.	ZMBRMNXZDS1	ROCHMNR012T
1347	ALBANY MUTUAL TEL ASSOCIATION, INC.	ALBYMNXA84G	STCDMNT012T
1356	BENTON COOPERATIVE TELEPHONE CO.	GLMNMNXG38G	STCDMNT012T
1370	CLARA CITY TELEPHONE EXCHANGE CO.	CLCYMNXBDS0	STCDMNT012T
1373	CONSOLIDATED TELEPHONE CO.	BRNRMNXADS1	STCDMNT012T
1389	FARMERS MUTUAL TELEPHONE CO.	BLHMMNXB56G	STCDMNT012T
1390	FEDERATED TELEPHONE COOPERATIVE	CHOKMNXCDS0	STCDMNT012T
1396	GARDONVILLE COOP TELEPHONE ASSN.	BRNDMNXB52G	STCDMNT012T
1423	LOWRY TELEPHONE CO.	LWRYMNO1RS0	STCDMNT012T
1430	MELROSE TELEPHONE CO.	MLRSMNXMDS0	STCDMNT012T
1433	MID-STATE TELEPHONE CO.	BROTMNXBDS0	STCDMNT012T
1433	MID-STATE TELEPHONE CO.	NWLNMNXNDS0	STCDMNT012T
1448	OSAKIS TELEPHONE CO.	PRPRMNXF33G	STCDMNT012T
1475	RUNESTONE TELEPHONE ASSOCIATION	HFMNMNXHDS0	STCDMNT012T
1476	SACRED HEART TELEPHONE CO.	SCHRMNXSRS7	STCDMNT012T
1487	STARBUCK TELEPHONE CO.	STRBMNXSDS1	STCDMNT012T
1494	UPSALA COOPERATIVE TEL. ASSOCIATION	UPSLMNXUDS0	STCDMNT012T
1350	ARVIG TELEPHONE CO.	PQLKMNXBDS0	WADNMNWA12T
1357	BLACKDUCK TELEPHONE CO.	BLKDMNXBDS0	WADNMNWA12T
1365	CALLAWAY TELEPHONE EXCHANGE	CLWYMNXC375	WADNMNWA12T
1374	ARROWHEAD COMMUNICATIONS CORP.	BENAMNXBDS0	WADNMNWA12T
1383	EAGLE VALLEY TELEPHONE CO.	CLRSMNXCDS0	WADNMNWA12T
1385	EAST OTTER TAIL TELEPHONE CO.	NYMLMNXNDS0	WADNMNWA12T
1385	EAST OTTER TAIL TELEPHONE CO.	PRHMMNXBDS0	WADNMNWA12T
1385	EAST OTTER TAIL TELEPHONE CO.	WHPHMNXWRS8	WADNMNWA12T
1385	EAST OTTER TAIL TELEPHONE CO.	WLKRMNXWDS0	WADNMNWA12T
1387	EMILY COOPERATIVE TELEPHONE CO.	EMLYMNXADS0	WADNMNWA12T
1395	GARDEN VALLEY TELEPHONE CO.	BGLYMNXB69G	WADNMNWA12T
1410	JOHNSON TELEPHONE CO.	REMRMNXR56G	WADNMNWA12T
1431	MIDWEST TELEPHONE CO.	PRPRMNXF33G	WADNMNWA12T
1450	PARK REGION MUTUAL TELEPHONE CO.	UNWDMNXU82G	WADNMNWA12T
1451	PAUL BUNYAN RURAL TELEPHONE COOP	PPSKMNXPRS2	WADNMNWA12T
1451	PAUL BUNYAN RURAL TELEPHONE COOP	TRRVNMXTDS0	WADNMNWA12T
1491	TWIN VALLEY - ULEN TEL. CO., INC.	TWVYMNXBDS0	WADNMNWA12T
1495	VALLEY TELEPHONE CO.	UNWDMNXU82G	WADNMNWA12T
1499	CROSSLAKE TELEPHONE CO.	CSLKMNXADS0	WADNMNWA12T
1501	WEST CENTRAL TELEPHONE ASSOCIATION	SEBKMN01DS1	WADNMNWA12T
1406	HILLS TELEPHONE CO., INC. - MINNESOTA	HILSMNXHRS9	WNDMMNWI12T
1406	HILLS TELEPHONE CO., INC. - MINNESOTA	STENMNXSRS8	WNDMMNWI12T
1419	LISMORE COOPERATIVE TELEPHONE CO.	LSMRMNXLDS0	WNDMMNWI12T
1439	MINNESOTA VALLEY TELEPHONE CO., INC.	FKLNMNXFDS0	WNDMMNWI12T
1442	NEW ULM TELECOM, INC.	NWULMNXN35G	WNDMMNWI12T
1483	SLEEPY EYE TELEPHONE CO.	SLEYMNXS79G	WNDMMNWI12T
1502	WESTERN TELEPHONE CO.	NWULMNXN35G	WNDMMNWI12T
1508	WINTHROP TELEPHONE CO.	WNTHMNXWDS0	WNDMMNWI12T
1510	WOODSTOCK TELEPHONE CO.	RTTNMNXRDS0	WNDMMNWI12T
1654	INTERSTATE TELECOM. COOP., INC. - MN	EKTNSDXARS3	WNDMMNWI12T
1654	INTERSTATE TELECOM. COOP., INC. - MN	GARYSDXADS0	WNDMMNWI12T
1654	INTERSTATE TELECOM. COOP., INC. - MN	HNDRMNXHRS2	WNDMMNWI12T
1654	INTERSTATE TELECOM. COOP., INC. - MN	LKBNMNXLRS3	WNDMMNWI12T

RECEIVED 11-13-11

**Stulen, Sandra**

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**From:** Melichar, Ed  
**Sent:** Friday, April 30, 2004 1:45 PM  
**To:** Tom Burns (E-mail)  
**Subject:** Qwest provisioning of transit services for wireless LNP and EAS traffic

Tom:

It has come to my attention that you have inquired on behalf of some of your clients about Qwest's ability to provide transit services for wireless LNP applications. Qwest is now ready to offer that service under contract, along with EAS transit service, to your companies if they are interested. The service will be offered as an Exhibit (#5) to the current Master Services Agreement (MSA) which most companies have already signed with Qwest for other Infrastructure Sharing applications.

I am attaching a copy of the Exhibit 5 to the MSA for your review.

If you have companies who have already signed the MSA with Qwest and also wish to sign Exhibit 5, please have them contact me at the address below and I will work with them to get the agreement executed. They will need to sign an amended signature page for their current MSA.

If you have companies who are interested in Exhibit 5, but have not yet signed the Master Services Agreement, they can also contact me and we will work with them to get both the MSA and Exhibit 5 executed.

If you have any questions, or wish to discuss the process, please call me at your convenience at 402-422-5094.

Thank you,  
Ed



Qwest EAS &  
Transit Service Ex...

**Ed Melichar**  
Qwest  
6th Floor  
1314 Douglas-on-the-Mall  
Omaha, NE 68102  
Phone: 402-422-5094  
FAX: 402-422-2162

**Exhibit 4I**

**DRAFT**  
**SERVICE EXHIBIT 5**  
**EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**1.0 EAS AND TRANSIT SERVICES MINIMUM SERVICE TERM.**

The term of this Service Exhibit 5 shall commence upon the Effective Date of the Agreement (or an amendment hereto, as applicable) and remain in effect for the same period listed in Section 7 of the Qwest Infrastructure Sharing Master Services Agreement. Both parties shall provide the EAS and Transit Services, as further described herein, according to the terms and conditions of this Service Exhibit and the Master Services Agreement.

**OTHER TYPES OF INTERCONNECTION AND SERVICES EXCLUDED.** Nothing in this Agreement will be construed as granting to either party any collocation arrangements through either physical or virtual collocation ("Collocation"), any access to any unbundled network elements ("Unbundled Access"), or access to operational support systems ("OSS Access"), and nothing herein will be construed as waiving or limiting in any way any rights available to either party under the Act with respect to Collocation, Unbundled Access, OSS Access, or other matters, including, but not limited to, ancillary services such as signaling access to call-related databases, directory assistance, white pages directory listings, busy line verify/interrupt, toll and assistance operator services, LIDB, access to poles/ducts/conduits, rights-of-way, 800 and CMDS. The parties reserve the right to negotiate such matters in separate agreements.

This EAS and Transit Services Exhibit is intended solely for the use of ILEC for its operations which are the subject of the Agreement, including the certification that ILEC is a "qualifying carrier" as defined by 47 U.S.C. §259. As such, this Exhibit applies solely to the uses discussed herein, and use of the services in a manner contrary to the restrictions of use in Section 2.0 shall be a material breach of the Exhibit and the Agreement.

Either Party may terminate this EAS and Transit Services Exhibit upon 90 day written notice to the other Party. Upon termination Parties agree that EAS and Transit Services between Parties will be terminated.

**2.0 EAS SERVICES.**

The Parties are incumbent local exchange carriers operating in certain respective communities which are located in adjacent, but not overlapping territories; the Parties do not compete against each other as local exchange carriers in those communities (collectively, the "Communities"), and the Parties are now or have been ordered by the "Insert State" Commission (the "Commission") [compelled by the public interest requirements of the Communities and the demands of their respective customers] to provide Extended Area Service between certain Exchanges of Exchange Carrier and certain Exchanges of QWEST; NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

The Parties agree to connect their respective networks at mutually agreed upon points so as to furnish Extended Area Service between those Exchanges of Exchange Carrier and those Exchanges of QWEST stated in the Qwest state Exchange and Network Services Tariff, Section 5.1.1. The Parties believe that the traffic exchanged between QWEST and Exchange Carrier will be generally in balance, because they serve the same type of customer base.

Subject to the provisions set forth below, neither Party will charge the other for the transport and termination of EAS Traffic that originated from the end user customers of one Party and terminates to the end user customers of the other Party.

The arrangements that are the subject of this EAS portion of this Exhibit will not be applicable to Exchange Access Service traffic, Telephone Toll Service traffic or to local Traffic not originated by or terminated to the parties in this agreement, e.g., FGA, Wireless, CLEC, and other ILECs. All Exchange Access Service, Telephone Toll Service traffic and local Traffic not originated by or terminated to the parties in the EAS portion of this Exhibit will continue to be governed by the terms and conditions of applicable federal and state tariffs and/or any applicable contractual arrangements made in this Exhibit for transit services.

This Agreement cancels and supersedes all previous settlement and/or compensation terms and rates between the Parties or their respective predecessors relating to the termination of EAS traffic in and/or between the Exchanges set forth in the Qwest state Exchange and Network Services Tariff, Section 5.1.1.

**3.0 TRANSIT SERVICES.**

Transit Service will be provided at each Party's local and access tandem switches, end offices providing local tandem functionality and end offices providing routing due to an unqueried call ported to another local services provider.

The Party originating the traffic acknowledges that it is its responsibility to enter into arrangements with each third party LEC, ILEC, CLEC, Co-Provider or CMRS for the exchange of transit traffic from such originating party and for the billing to the originating carrier for such exchange.

Each Party originating transit traffic acknowledges that the other Party has no responsibility to pay any third party LEC, ILEC, CLEC, Co-Provider or CMRS charges for termination of any transit traffic from such originating Party. Neither Party

**DRAFT**  
**SERVICE EXHIBIT 5**  
**EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

will default bill the other Party for unidentified traffic that neither Party can identify, which terminates on their respective networks, unless otherwise provided for in this Agreement. In the event that one Party can identify the traffic, and the other Party requests the transit records, the Parties will negotiate a separate agreement for the provision of those transit records.

Parties will not pay switched access on local calls in either direction between Parties and any third party LEC, ILEC, CLEC, Co-Provider or CMRS when local calls are routed through an access tandem.

**4.0 NETWORK RESPONSIBILITIES**

**PHYSICAL INTERCONNECTION**

The Parties have interconnected their facilities at the agreed upon meet points within the Exchanges listed and described in the Qwest state Exchange and Network Services Tariff, Section 5.1.1. The Parties agree that meet points within the exchanges listed and described in the Qwest state Exchange and Network Services Tariff, Section 5.1.1 will be limited to the pre-existing meet points within those exchanges. Should either Party request change of existing or add new meet points these meet points will be mutually agreed upon by both Parties. Pre-existing physical interconnection arrangements will remain in place until such time as the Parties mutually agree to convert such physical interconnection arrangements to a type of arrangement other than a meet point. The Qwest state Exchange and Network Services Tariff, Section 5.1.1 may be updated from time to time as additional EAS is ordered by the Commission. The parties intend that, to the greatest extent practicable, all terms, conditions, agreements and arrangements relating to existing physical interconnection, operation, maintenance, methods, practices and provisioning will remain in full force and effect unless and until otherwise agreed to by the Parties.

The Parties will jointly engineer and configure local trunks over the physical interconnection facilities as follows:

Each Party will initially configure a two (2) way trunk group as a direct transmission path between the two Parties.

If the traffic volumes between any two (2) end office switches including other ILEC, CLEC and CMRS switches, at anytime exceeds the centum call second ("CCS") busy hour equivalent of one (1) DS1 (512 CCS), the Parties will, within sixty (60) days of such occurrence, establish a new direct trunk group to the applicable end office(s) consistent with the grades of service and quality parameters set forth in this Exhibit.

Only those valid NXX codes served by an end office may be accessed through a direct connection to that end office.

Each Party will ensure that each tandem connection permits the completion of all traffic to all end offices, which sub-tend that tandem switch.

The provision of additional trunks, if necessary for EAS expansion of EAS voice, will be subject to negotiation between the Parties.

It shall be the responsibility of each Party to program and update its own Switches and network systems pursuant to the Local Exchange Routing Guide (LERG) to recognize and route traffic to the other Party's assigned NXX or NXX-X codes. Neither Party shall impose any fees or charges on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.

Each Party is responsible for administering numbering resources assigned to it. Each Party will cooperate to timely rectify inaccuracies in its LERG data. Each Party is responsible for updating the LERG data for NXX codes assigned to its End Office Switches. Each Party shall use the LERG published by Telcordia or its successor for obtaining routing information and shall provide through an authorized LERG input agent, all required information regarding its network for maintaining the LERG in a timely manner.

Both Parties agree that their network switches involved in the provision of EAS service will be managed in accordance with the applicable Telcordia and other industry standards. The acceptable service levels for local interconnection service and the criteria for applying protective controls in conjunction with EAS service will be administered in the same manner as the network management for Exchange Access Services.

To the extent available, the parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in applicable industry standards including ISDN user part ("ISUP") for trunk signaling and transaction capabilities application part ("TCAP") for common channel signaling based features in the interconnection of their networks.

Each Party will be responsible only for service(s) and facility or facilities which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party will bear any responsibility for the services and facilities provided by the other Party, its agents, subcontractors, or others retained by such Party.

**DRAFT**  
**SERVICE EXHIBIT 5**  
**EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**5.0 OBLIGATIONS OF BOTH PARTIES.**

Parties will provide and maintain the equipment and facilities necessary to permit each other to furnish the services for which the Parties contract.

Parties will provision appropriate trunking to access tandems, local tandems and/or end offices with local tandem functionality, this includes but not limited to provisioning trunking with appropriate traffic use codes.

Parties shall have no obligation to supply a Service where facilities or technical abilities are limited.

Parties will perform Services provided under this Agreement in accordance with operating methods, practices, and standards in effect for each other's End Users.

Parties shall maintain adequate equipment and personnel to reasonably perform the Services. Parties shall connect their End Users to the place(s) where each Party provides the Services and to provide all information and data needed or reasonably requested by each other in order to perform the Services.

**6.0 CHARGES AND PAYMENTS FOR TRANSIT SERVICES.**

The charge for the Transit Services provided by each Party under this Service Exhibit is reciprocal and listed in Schedule A, attached hereto and incorporated herein by reference.

The charges listed in Schedule A shall be subject to adjustment upon sixty (60) days prior written notice by either Party and shall remain reciprocal.

Parties shall be obligated to pay all applicable charges as set forth herein for Transit Services provided by the other Party.

Transit Provider will track usage and bill the originator of the traffic, and the originator of the traffic shall be responsible for and will pay the Transit Provider for all Rates and charges applicable to the calls placed to third party's end users.

Until such time that Qwest has the ability to record the originating traffic, the Parties agree to implement the interim transit charge provisions on Schedule B. When Qwest has actual recordings of originating transit usage available, Qwest will bill transit charges based on Qwest's recording of transit traffic usage.

A completed call shall be computed, calculated and recorded in accordance with the methods and practices of Transit Provider and the operating capacity and ability of Transit Provider's measuring equipment.

The originator of the traffic will pay the Transit Provider for transit traffic at the reciprocal rates specified in Schedule A. It is the responsibility of the originator of the traffic to provide billing information to the third party assuming that recording capabilities exist to obtain that measured data.

If, due to equipment malfunction or other error, Transit Provider does not have available the necessary information to compile an accurate billing statement, Transit Provider may render a reasonably estimated statement, but shall notify originator of the traffic of the methods of such estimate and cooperate in good faith with originator of the traffic to establish a fair, equitable estimate. Transit Provider shall render a statement reflecting actual billable quantities when and if the information necessary for the billing statement becomes available.

Each Party alone and independently establishes all prices it charges its End Users for Services provided by means of this Agreement, and the other Party is not liable or responsible for the collection of any such amounts.

**7.0 DEFINITIONS.**

"Access Services" refers to the tariffed interstate and intrastate switched access and private line transport services offered for the origination and/or termination of interexchange traffic.

"Act", as used in this Exhibit, means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.

"Ancillary Traffic", includes all traffic destined for ancillary services, or that may have special billing requirements, including but not limited to the following: Directory assistance, 911/E911, Operator call termination (busy line interrupt and verify), 800/888, LIDB, and Information services requiring special billing.

"Commission", as used in this Exhibit, means the "Insert State" Public Utility Commission of the State of "Insert State".

**DRAFT**  
**SERVICE EXHIBIT 5**  
**EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

"Co-Provider" means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent Local Exchange Carrier ("LEC"). "Exchanges", as used in this Agreement, will mean the local telephone exchanges listed in the Qwest state Exchange and Network Services Tariff, Section 5.1.1.

"Extended Area Service" ("EAS"), as used in this Exhibit, means an arrangement for the mutual, reciprocal transport and termination of EAS Traffic between Parties who are not competing with each other, at rates and charges between the Parties established in this Agreement. Calls may be placed between two Exchanges without a Telephone Toll Service charge, to the customers of the Parties.

"Extended Area Service (EAS) Traffic" means traffic (excluding CLEC and CMRS traffic, and information service provider and voice over IP, e.g., competitive local traffic, paging, cellular, PCS) that is originated by an end user of one Party and terminates to an end user of the other Party as defined in accordance with Qwest's then current EAS serving areas, as determined by the Commission.

"Incumbent Local Exchange Carrier" (ILEC), as used in this Exhibit, means with respect to an area, the LEC that: (1) on February 8, 1996, provided Telephone Exchange Service in such area; and (2) (i) on February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to § 69.601 (b) of the FCC's regulations; or (ii) is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in clause (i) of this paragraph.

"Local Exchange Carrier" (LEC), as used in this Exhibit, means any person that is engaged in the provision of Telephone Exchange Service or Exchange Access Service.

"Telephone Toll Service", as used in this Exhibit, means a type of telecommunication service, commonly known as long-distance service, that is provided on an intrastate or interstate basis between LATAs and within LATAs and that is: (A) not included as a part of basic local exchange service; (B) provided between different exchange areas, and (C) billed to the customer separately from basic local exchange service.

"Termination", as used in this Exhibit, means the switching of EAS Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

"Transport", as used in this Exhibit, means the transmission and any necessary tandem switching of EAS Traffic from the interconnection point, or meet point, between the Parties to the terminating carrier's end office switch that directly serves the called party.

"Transit Provider", as used in this Exhibit means the Party that is providing the Transit Service.

"Transit Service" as used in this Exhibit is Transit traffic which is any traffic that originates from one (1) Telecommunications Carrier's network, transits another Telecommunications Carrier's network, and terminates to yet another Telecommunications Carrier's network. For purposes of the Agreement, transit traffic does not include traffic carried by Interexchange Carriers or traffic originated by Qwest when acting as a toll provider. Interexchange Carriers' traffic is defined as Jointly Provided Switched Access. Transit service is provided by Qwest at local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider, to ILEC to enable the completion of calls originated by or terminated to another Telecommunications Carrier (such as a CLEC, an ILEC, an exiting LEC, a co-provider, or a wireless Carrier), which is connected to Qwest's local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider. To the extent that ILEC's Switch functions as a local or Access Tandem Switch, ILEC may also provide transit service to Qwest.

**DRAFT  
SERVICE EXHIBIT 5  
EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**SCHEDULE A  
QWEST TRANSIT CHARGE**

TRANSIT RATE	\$.0089 Per MOU
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**DRAFT**  
**SERVICE EXHIBIT 5**  
**EAS AND TRANSIT SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**Schedule B**  
**Interim Transit Charge**  
**MINNESOTA**

Since Qwest currently does not have the recording capability to record ILEC originated traffic transiting through Qwest's network to a third party, Qwest will bill ILEC based on that ILEC's actual transit minutes provided by the originating ILEC to Qwest on a monthly basis. Data is subject to audit by Qwest no more than twice per year. These MOU will then be multiplied by the transit rate shown on Schedule A. Each month Qwest will bill this amount to the ILEC. If the originating ILEC doesn't provide Qwest with data to bill, Qwest will bill a minimum charge of \$300 per month per ILEC in the rural area and a minimum charge of \$6,000 per month per ILEC in the metro area. This interim method will be utilized until Qwest has actual originating transit routed traffic measurements available.

-----Original Message-----

**From:** Thomas Burns [mailto:tgburns@mn.rr.com]

**Sent:** Thursday, May 06, 2004 12:14 PM

**To:** Melichar, Ed

**Cc:** Pat Holton; Cecilia Ray

**Subject:** CMRS Transit Service Agreement

Ed,

Please forgive that I am sending this from my home email. Our work server was hit by virus this AM. I ask that you do not respond to this email, rather direct responses to my work email: [tgburns@olsen-thielen.com](mailto:tgburns@olsen-thielen.com).

Since this agreement bears little resemblance to the original EAS document - I have not shown changes in redline. As discussed, the attached draft is to be used as discussion document and has not been reviewed by our attorney.

Tom B

5/19/2004

**Exhibit 4J**

*nIC Draft Reply*

DRAFT  
SERVICE EXHIBIT 5  
CMRS SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT

**1.0 CMRS TRANSIT SERVICES MINIMUM SERVICE TERM.**

The term of this Service Exhibit 5 shall commence upon the Effective Date of the Agreement (or an amendment hereto, as applicable) and remain in effect for the same period listed in Section 7 of the Qwest Infrastructure Sharing Master Services Agreement. Both parties shall provide CMRS Transit Services, as further described herein, according to the terms and conditions of this Service Exhibit and the Master Services Agreement.

**OTHER TYPES OF INTERCONNECTION AND SERVICES EXCLUDED.** Nothing in this Agreement will be construed as granting to either party any collocation arrangements through either physical or virtual collocation ("Collocation"), any access to any unbundled network elements ("Unbundled Access"), or access to operational support systems ("OSS Access"); and nothing herein will be construed as waiving or limiting in any way any rights available to either party under the Act with respect to Collocation, Unbundled Access, OSS Access, or other matters, including, but not limited to, ancillary services such as signaling access to call-related databases, directory assistance, white pages directory listings, busy line verify/interrupt, toll and assistance operator services, LIDB, access to poles/ducts/conduits, rights-of-way, 800 and CMDS. The parties reserve the right to negotiate such matters in separate agreements.

This CMRS Transit Services Exhibit is intended solely for the use of ILEC for its operations which are the subject of the Agreement, including the certification that ILEC is a "qualifying carrier" as defined by 47 U.S.C. §259. As such, this Exhibit applies solely to the uses discussed herein, and use of the services in a manner contrary to the restrictions of use in Section 2.0 shall be a material breach of the Exhibit and the Agreement. [We believe §259 agreements, including the MSA and this exhibit, must be filed with the state Commission]

This agreement is entered into in order to allow ILEC to implement FCC ordered Wireless local number portability and is not intended to change or modify any other joint provisioning of services or provision of transit services by either party. [How does a CLEC which does not have an ICA with Qwest and which is not an ETC (therefore not eligible for §259) obtain this service?]

Either Party may terminate this CMRS Transit Services Exhibit upon 90 day written notice to the other Party. Upon termination Parties agree that CMRS Transit Services between Parties will be terminated.

**2.0 CMRS TRANSIT SERVICES IN COMMISSION MANDATED EAS SERVICE AREAS.**

The Parties are incumbent local exchange carriers operating in certain respective communities which are located in adjacent, but not overlapping territories; the Parties do not compete against each other as local exchange carriers in those communities (collectively, the "Communities"), and the Parties are now or have been ordered by Minnesota Public Utilities Commission compelled by the public interest requirements of the Communities and the demands of their respective customers to provide Extended Area Service between certain Exchanges of Exchange Carrier and certain Exchanges of QWEST; NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

The arrangements that are the subject of this EAS portion of this Exhibit will be applicable only to Transit of Wireless Traffic from ILEC exchanges located in Qwest Commission mandated EAS areas in cases where wireless carriers have local numbering resources in such free calling areas.

This Agreement does not supersede any previous settlement and/or compensation terms and rates between the Parties or their respective predecessors relating to the termination of EAS traffic in and/or between the Exchanges set forth in the Qwest state Exchange and Network Services Tariff, Section 5.1.1. or Commission orders related to the establishment of such EAS service area.

It is agreed by the parties that Qwest will provide such Transit of Wireless traffic from ILEC exchanges located in Qwest Commission mandated EAS areas without charge or compensation other than that contemplated in the Commissions original EAS orders establishing such EAS areas until such time as the Commission modifies such orders.

**3.0 CMRS TRANSIT SERVICES.**

CMRS Transit Service will be provided at each Party's local and access tandem switches, end offices providing local tandem functionality and end offices providing routing due to an unqueried call ported to another local services provider.

The Party originating the traffic acknowledges that it is its responsibility to enter into arrangements with each third party CMRS provider for the exchange of transit traffic from such originating party and for the billing to the originating carrier for such exchange.

Each Party originating CMRS transit traffic acknowledges that the other Party has no responsibility to pay any third party CMRS provider charges for termination of any transit traffic from such originating Party. Neither Party will default bill the other Party for unidentified CMRS traffic that neither Party can identify, which terminates on their respective networks, unless otherwise provided for in this Agreement. In the event that one Party can identify the traffic, and the other Party

**DRAFT**  
**SERVICE EXHIBIT 5**  
**CMRS SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

requests the transit records, the Parties will negotiate a separate agreement for the provision of those transit records. [The transit records can be provided under pursuant to the MSA usage amendment (modified as necessary)]

**4.0 NETWORK RESPONSIBILITIES.**

**PHYSICAL INTERCONNECTION**

The Parties have interconnected their facilities at the agreed upon meet points. Should either Party request change of existing or add new meet points these meet points will be mutually agreed upon by both Parties. Pre-existing physical interconnection arrangements will remain in place until such time as the Parties mutually agree to convert such physical interconnection arrangements to a type of arrangement other than a meet point. The parties intend that, to the greatest extent practicable, all terms, conditions, agreements and arrangements relating to existing physical interconnection, operation, maintenance, methods, practices and provisioning will remain in full force and effect unless and until otherwise agreed to by the Parties.

CMRS Transit Traffic traverses "common" trunk groups, e.g., tandem-to-end office trunks. The Parties will jointly engineer and configure their networks to utilize the common trunks as follows:

-Only those valid NXX codes served by an end office may be accessed through a tandem connection to that end office.

-Each Party will ensure that each tandem connection permits the completion of all traffic to all end offices, which sub-tend that tandem switch.

The provision of additional trunks, if necessary for CMRS Transit Service will be subject to negotiation between the Parties.

It shall be the responsibility of each Party to program and update its own Switches and network systems pursuant to the Local Exchange Routing Guide (LERG) to recognize and route traffic to the other Party's assigned NXX or NXX-X codes. Neither Party shall impose any fees or charges on the other Party for such activities. The Parties will cooperate to establish procedures to ensure the timely activation of NXX assignments in their respective networks.

Each Party is responsible for administering numbering resources assigned to it. Each Party will cooperate to timely rectify inaccuracies in its LERG data. Each Party is responsible for updating the LERG data for NXX codes assigned to its End Office Switches. Each Party shall use the LERG published by Telcordia or its successor for obtaining routing information and shall provide through an authorized LERG input agent, all required information regarding its network for maintaining the LERG in a timely manner.

Both Parties agree that their network switches involved in the provision of CMRS Transit Service will be managed in accordance with the applicable Telcordia and other industry standards. The acceptable service levels for local interconnection service and the criteria for applying protective controls in conjunction with EAS service will be administered in the same manner as the network management for Exchange Access Services.

To the extent available, the parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in applicable industry standards including ISDN user part ("ISUP") for trunk signaling and transaction capabilities application part ("TCAP") for common channel signaling based features in the interconnection of their networks.

Each Party will be responsible only for service(s) and facility or facilities which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party will bear any responsibility for the services and facilities provided by the other Party, its agents, subcontractors, or others retained by such Party.

**5.0 OBLIGATIONS OF BOTH PARTIES.**

Parties will provide and maintain the equipment and facilities necessary to permit each other to furnish the services for which the Parties contract.

Parties will provision appropriate trunking to access tandems, local tandems and/or end offices with local tandem functionality.

Parties shall have no obligation to supply a Service where facilities or technical abilities are limited except as required by state law or the Commission rules.

Parties will perform Services provided under this Agreement in accordance with industry standards

**DRAFT**  
**SERVICE EXHIBIT 5**  
**CMRS SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**6.0 CHARGES AND PAYMENTS FOR CMRS TRANSIT SERVICES.**

The charge for the Transit Services provided by each Party under this Service Exhibit is reciprocal and listed in Schedule A, attached hereto and incorporated herein by reference.

No CMRS transit service charges shall apply to ILEC traffic transited by Qwest local or tandem switches to CMRS providers with numbering resources in the ILEC /Qwest Commission mandated EAS areas.

Parties shall be obligated to pay all applicable charges as set forth herein for CMRS Transit Services provided by the other Party.

CMRS Transit Provider will track usage and bill the originator of the traffic, and the originator of the traffic shall be responsible for and will pay the Transit Provider for all Rates and charges applicable to the calls placed to third CMRS end users.

Until such time that Qwest has the ability to record the originating traffic, the Parties agree to implement the interim CMRS transit charge provisions on Schedule B. When Qwest has actual recordings of originating transit usage available, Qwest will bill CMRS transit charges based on Qwest's recording of CMRS transit traffic usage.

A completed call shall be computed, calculated and recorded in accordance with industry standards

The originator of traffic to CMRS providers will pay the Transit Provider for CMRS transit traffic at the reciprocal rates specified in Schedule A.

If, due to equipment malfunction or other error, Transit Provider does not have available the necessary information to compile an accurate billing statement, Transit Provider may render a reasonably estimated statement, but shall notify originator of the traffic of the methods of such estimate and cooperate in good faith with originator of the traffic to establish a fair, equitable estimate. Transit Provider shall render a statement reflecting actual billable quantities when and if the information necessary for the billing statement becomes available.

Each Party alone and independently establishes all prices it charges its End Users for Services provided by means of this Agreement, and the other Party is not liable or responsible for the collection of any such amounts.

**7.0 DEFINITIONS.**

"Access Services" refers to the tariffed interstate and intrastate switched access and private line transport services offered for the origination and/or termination of interexchange traffic.

"Act", as used in this Exhibit, means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.

"Ancillary Traffic", includes all traffic destined for ancillary services, or that may have special billing requirements, including but not limited to the following: Directory assistance, 911/E911, Operator call termination (busy line interrupt and verify), 800/888, LIDB, and Information services requiring special billing.

"Commission", as used in this Exhibit, means the Public Utility Commission of the State of Minnesota

"Co-Provider" means an entity authorized to provide Local Exchange Service that does not otherwise qualify as an incumbent Local Exchange Carrier ("LEC"). "Exchanges", as used in this Agreement, will mean the local telephone exchanges listed in the Qwest state Exchange and Network Services Tariff, Section 5.1.1.

"CMRS Transit Provider", as used in this Exhibit means the Party that is providing the Transit Service.

"CMRS Transit Service" as used in this Exhibit, is any traffic which originates (or terminates) on a CMRS provider's network, transits one Party's network, and terminates (or originates) on the other Party's network. For purposes of the Agreement, CMRS transit traffic does not include traffic carried by Interexchange Carriers or traffic originated by Qwest when acting as a toll provider. Interexchange Carriers' traffic is defined as Jointly Provided Switched Access. CMRS Transit service is provided by Qwest at Tandem Switches. local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to another local services provider, to ILEC to enable the completion of calls originated by or terminated CMRS providers, which is connected to Qwest's local and access tandem switches, an end office providing local tandem functionality, as well as end offices providing routing due to an unqueried call ported to a CMRS provider. To the extent that ILEC's Switch functions as a local or Access Tandem Switch, ILEC may also provide CMRS transit service to Qwest.

**DRAFT**  
**SERVICE EXHIBIT 5**  
**CMRS SERVICES EXHIBIT AND RATE SCHEDULE**  
**INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

"Extended Area Service" ("EAS"), as used in this Exhibit, means an arrangement for the mutual, reciprocal transport and termination of EAS Traffic between Parties who are not competing with each other, at rates and charges between the Parties established in this Agreement. Calls may be placed between two Exchanges without a Telephone Toll Service charge, to the customers of the Parties.

"Extended Area Service (EAS) Traffic" means traffic (including CLEC and CMRS traffic, and information service provider and voice over IP, e.g., competitive local traffic, paging, cellular, PCS) that is originated by an end user of one Party and terminates to an end user of the other Party as defined in accordance with Qwest's then current EAS serving areas, as determined by the Commission.

"Incumbent Local Exchange Carrier" (ILEC), as used in this Exhibit, means with respect to an area, the LEC that: (1) on February 8, 1996, provided Telephone Exchange Service in such area; and (2) (i) on February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to § 69.601 (b) of the FCC's regulations; or (ii) is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in clause (i) of this paragraph.

"Local Exchange Carrier" (LEC), as used in this Exhibit, means any person that is engaged in the provision of Telephone Exchange Service or Exchange Access Service.

"Tandem Switch" as used in Exhibit, means an access tandem or local tandem which provides switching of traffic between and among end office switches ("trunk-to-trunk switching"). Included as a Tandem Switch are any end office switches which provide such trunk-to-trunk switching functionality for wireless service providers and or competitive local exchange carriers.

"Telephone Toll Service", as used in this Exhibit, means a type of telecommunication service, commonly known as long-distance service, that is provided on an intrastate or interstate basis between LATAs and within LATAs and that is: (A) not included as a part of basic local exchange service; (B) provided between different exchange areas, and (C) billed to the customer separately from basic local exchange service.

"Termination", as used in this Exhibit, means the switching of CMRS Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

"Transport", as used in this Exhibit, means the transmission and any necessary tandem switching of CMRS Traffic from the interconnection point, or meet point, between the Parties to the terminating CMRS providers end office switch that directly serves the called party.

**DRAFT  
SERVICE EXHIBIT 5  
CMRS SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**SCHEDULE A  
QWEST TRANSIT CHARGE**

TRANSIT RATE	\$ .00164 Per MOU
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No CMRS transit service charges shall apply to ILEC traffic transited by Qwest end office or local tandem switches to CMRS providers with numbering resources in the ILEC /Qwest Commission mandated EAS areas.

**DRAFT  
SERVICE EXHIBIT 5  
CMRS SERVICES EXHIBIT AND RATE SCHEDULE  
INFRASTRUCTURE SHARING MASTER SERVICES AGREEMENT**

**Schedule B  
Interim Transit Charge  
MINNESOTA**

Since Qwest currently does not have the recording capability to record ILEC originated traffic transiting through Qwest's network to third party CMRS providers, Qwest will bill ILEC based on that ILEC's actual transit minutes provided by the originating ILEC to Qwest on a monthly basis. Data is subject to audit by Qwest no more than twice per year. These MOU will then be multiplied by the transit rate shown on Schedule A. Each month Qwest will bill this amount to the ILEC. If the originating ILEC doesn't provide Qwest with data to bill, Qwest will bill a minimum charge of \$10 per month per ILEC to Qwest access tandem trunk group which transits ILEC to CMRS providers. This interim method will be utilized until Qwest has actual originating transit routed traffic measurements available.



-----Original Message-----

**From:** Melichar, Ed  
**Sent:** Friday, May 07, 2004 3:06 PM  
**To:** Tom Burns (E-mail)  
**Subject:** Per our discussion  
**Importance:** High



InterimTransitServ  
WLNP.doc (24...

**Ed Melichar**  
Qwest  
6th Floor  
1314 Douglas-on-the-Mall  
Omaha, NE 68102  
Phone: 402-422-5094  
FAX: 402-422-2162

This letter is to provide an interim measure for Qwest to provide Transit Service to ILECs for Wireless LNP while Qwest and such ILEC are currently negotiating a Transit Service Exhibit under 259 for all transit traffic in Minnesota.

While Qwest believes it is not under an obligation to provide transit service, Qwest is willing to provide such service to ILECs under a Transit Services Exhibit (the "Exhibit"), as part of an Infrastructure Sharing Master Services Agreement under 47 U.S.C. §259 (the "Agreement"). Since Qwest and such ILEC cannot finalize terms and conditions of the Exhibit and the Agreement in a timeframe to allow the ILECs to comply with the Wireless LNP order, Qwest is offering this interim measure for Transit Service for the Wireless LNP transit traffic.

This interim arrangement would begin effective May 7, 2004 and cease in 90 days should ILEC and Qwest not have a signed Agreement and Exhibit. Should ILEC and Qwest agree to and sign an Agreement and Exhibit, this Wireless LNP transit traffic would be included as a part of all transit traffic.

Since Qwest currently does not have the recording capability to record ILEC originated traffic transiting through Qwest's network to a third party, Qwest will bill ILEC based on that ILEC's actual transit minutes for Wireless LNP provided by the originating ILEC to Qwest on a monthly basis. Data are subject to audit by Qwest no more than once during this 90 day timeframe. These MOU will then be multiplied by the transit rate of \$.0089 per MOU. Each month Qwest will bill this amount to the ILEC. If the originating ILEC doesn't provide Qwest with data to bill, Qwest will bill a minimum charge of \$20 per month per ILEC in the rural area and a minimum charge of \$800 per month per ILEC in the Minneapolis/St. Paul metro area this is only for the 90 day timeframe and only for the ILEC originated transit usage related to Wireless LNP transit traffic. This interim method will be utilized until Qwest has actual originating transit routed traffic measurements available.

In order for Qwest to provision network modifications necessary for ILECs to provide Wireless LNP under this interim measure by a May 21, 2004 timeframe, Qwest will need from each ILEC a signed copy of this letter, 2/6 codes and accurate A-Z locations for each trunk group involved as soon as possible, but no later than close of business Tuesday, May 11, 2004 to ensure completion by the above mentioned timeframe. If this information is not sent to Qwest by close of business on Tuesday, May 11, 2004, Qwest will not be able to meet the May 21, 2004 timeframe for Wireless LNP network modifications and will not be in breach of this interim letter.

\_\_\_\_\_  
ILEC Company Name

\_\_\_\_\_  
Qwest

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

2/6 Code	A-Z Location

-----Original Message-----

**From:** Tom Burns [mailto:tgburns@olsen-thielen.com]  
**Sent:** Monday, May 10, 2004 11:08 AM  
**To:** Melichar, Ed  
**Cc:** rayc@moss-barnett.com; charlie.hoffman@maslon.com  
**Subject:** MIC Response re CMRS Transit

Ed,

Please see the attached.

Tom B

<<Reply Memo to Qwest EM re LNP Implementation v1 051004.doc>>

-  
Thomas Burns  
Senior Telecommunications Consultant  
Olsen Thielen & Co., Ltd.  
775 Prairie Center Drive  
Suite 480  
Eden Prairie, MN 55344  
952.829.3419 voice  
952.400.8798 eFax

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5/19/2004

**Exhibit 4L**



# OLSEN THIELEN & CO., LTD.

*Certified Public Accountants & Consultants*

## MEMO

Date May 10, 2004  
To: Ed Melicar  
cc: Jason Topp, Charlie Hoffman  
From: Tom Burns  
Subject: Qwest May 7<sup>th</sup> Interim Arrangement Letter re CMRS Transit

---

I have reviewed the proposal you submitted to me last Friday afternoon. To state the obvious, it does take more than two days notice to obtain agreement and signatures from 76 companies on any matter. The MIC has filed a request for suspension of local number portability obligations with the Minnesota Public Utilities Commission until July 30, 2004 or until Qwest enables the transit services requested.

Should Qwest wish to negotiate a narrow agreement which is limited in scope to the request MIC made of Qwest, i.e., enabling wireline-to-wireless traffic routed via Qwest access tandems, the draft agreement sent I sent to can serve as the basis for our negotiations.

To discuss this matter further, please contact me at 952.829.3419.

*Associated World-Wide with Jeffreys Henry International (JHI)*

Flagship Corporate Center, 775 Prairie Center Drive, Ste. 480, Eden Prairie, Minnesota 55344 952 941 9242 FAX 952 941 0577  
223 Little Canada Road, St. Paul, Minnesota 55117 651 483 4521 FAX 651 483 2467

CONFIDENTIAL

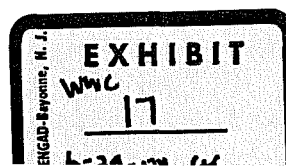
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TC 04 - 025

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**Switch Upgrade Costs**  
**Western**

Upgrade to Host	\$	76,795.00
Installation for upgrade	\$	10,920.00
Spares	\$	6,872.00
LNP Software	\$	41,800.00
LNP Installation	\$	3,600.00
Switch translations	\$	<u>6,000.00</u>
Total	\$	145,987.00



CONFIDENTIAL

# 6

TC 04 - 025

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

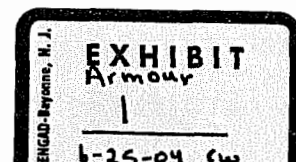
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IN THE MATTER OF THE PETITION  
OF ARMOUR INDEPENDENT TELE-  
PHONE COMPANY, BRIDGEWATER-  
CANISTOTA INDEPENDENT TELE-  
PHONE COMPANY AND UNION  
TELEPHONE COMPANY FOR SUS-  
PENSION OR MODIFICATION OF §  
251(b)(2) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED

Docket No. 04-046

DIRECT PRE-FILED TESTIMONY OF  
DENNIS LAW

May 14, 2004





1   **Q: Please state your business name and address?**

2   A: My name is Denny Law, Regional Manager of Union Telephone Company, Armour  
3       Independent Telephone Company, Bridgewater-Canistota Independent Telephone  
4       Company. The address is 116 North Main Avenue, Hartford, SD 57033. The  
5       phone number is 605-528-3211.

6   **Q: By whom are you employed and in what capacity?**

7   A: I am the Regional Manager of Union Telephone Company, Armour Independent  
8       Telephone Company and Bridgewater-Canistota Telephone Company. Each of the  
9       companies are rural independent local exchange carriers that provide local  
10      exchange, exchange access and other telecommunications services. Union  
11      Telephone Company serves 1,597 access lines, including 38 lifeline customers.  
12      within its South Dakota service area, which include the exchanges of Hartford and  
13      Wall Lake. Armour Independent Telephone Company serves 583 access lines,  
14      including 33 lifeline customers, within its South Dakota service area, which  
15      includes the Armour exchange. Bridgewater-Canistota Telephone Company serves  
16      873 access lines, including 47 lifeline customers, within its South Dakota service  
17      area, which include the exchanges of Bridgewater and Canistota.

18   **Q: Does your company have any direct points of interconnection with any wireless**  
19      **carrier and/or does your company provide any blocks of numbers for your**  
20      **company's rate centers to any wireless carrier.**

21   A: No.

22   **Q: What is the current method of routing calls from your subscriber's landline**  
23      **phones to wireless phone numbers?**

1 A: If the Telephone Company subscriber is calling a wireless phone number that is  
2 located outside of Telephone Company's local calling area or Extended Area  
3 Service (EAS) area, the customer must dial the full ten-digit (XXX-XXX-XXXX)  
4 number of the wireless phone and the call is routed through the customer's  
5 presubscribed Interexchange carrier. If the subscriber is calling a wireless phone  
6 number that is assigned to an exchange with which the Telephone Company has an  
7 EAS agreement, the customer may dial the wireless phone number as a local call  
8 (XXX-XXXX). Union Telephone Company currently has an EAS agreement with  
9 Qwest Communications (Sioux Falls exchange). Armour Independent Telephone  
10 Company and Bridgewater-Canistota Telephone Company do not have any EAS  
11 agreements.

12 **Q: What is the number of wireless carriers providing service in your company's**  
13 **service area?**

14 A: Wireless carriers believed to be providing service are:

- 15 1. Cellular One/Western Wireless
- 16 2. Verizon Wireless
- 17 3. Nextel
- 18 4. Sprint PCS/Swiftel
- 19 5. Unice

20 **Q: Have any subscribers requested local number portability (LNP) from your**  
21 **company?**

1 A: There have been no subscriber requests for local number portability to be offered by  
2 Union Telephone Company, Armour Independent Telephone Company or  
3 Bridgewater-Canistota Telephone Company.

4 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
5 **requested LNP from your company?**

6 A: No.

7 **Q: Are there further complications to implementation of LNP in these exchanges?**  
8 **If yes, what are they?**

9 A: Yes. The switch manufacturer's discontinuance of support for the switching  
10 platform, effective December 13, 2007, is an additional complication. Said  
11 discontinuance would force the companies to invest significant dollars into a switch  
12 that will become unsupportable in the near future.

13 **Q: Have any wireless carriers requested LNP?**

14 A: Yes.

15 **Q: In your experience as the regional manager of these companies, have you**  
16 **seen increases or additions to the itemized fees on your customer's telephone**  
17 **bills?**

18 A: Yes.

19 **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
20 **their bills?**

21 A: I would expect the reaction to be very negative.

22 **Q: Is the public interest, convenience, and necessity served by requiring your**  
23 **company to implement LNP at this time?**

1 A. No, because Union Telephone Company, Armour Independent Telephone Company  
2 and Bridgewater-Canistota Telephone Company have received no requests from  
3 customers to offer local number portability.

4 **Q: Does this conclude your direct testimony?**

5 A: Yes

6

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF ARMOUR INDEPENDENT TELE-  
PHONE COMPANY, BRIDGEWATER-  
CANISTOTA INDEPENDENT TELE-  
PHONE COMPANY AND UNION  
TELEPHONE COMPANY FOR SUS-  
PENSION OR MODIFICATION OF §  
251(b)(2) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED

Docket No. 04-046

REBUTTAL TESTIMONY

OF DENNIS LAW

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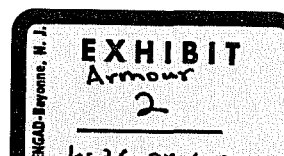
REBUTTAL TESTIMONY OF

DENNIS LAW

ON BEHALF OF

ARMOUR INDEPENDENT TELEPHONE COMPANY,  
BRIDGEWATER-CANISTOTA INDEPENDENT TELEPHONE COMPANY  
AND UNION TELEPHONE COMPANY

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Dennis Law. I am the General Manager of Armour Independent Tele-  
3 phone Company, 116 North Main Ave., Hartford, South Dakota, 57033; Bridge-  
4 water-Canistota Independent Telephone, 116 North Main Ave., Hartford, South  
5 Dakota 57033; and Union Telephone Company, 116 North Main Ave., Hartford,  
6 South Dakota 57033 (referred to collectively as "Armour").

7 Q. What is the purpose of your testimony?

8 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
9 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
10 less).

11 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
12 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
13 their legal obligations." How do you respond?

14 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
15 Once the FCC made it clear that wireline carriers would be required to port num-  
16 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Ar-  
17 mour took immediate steps to investigate the cost and the processes involved with  
18 LNP and to explore its legal options. Because Armour had no experience with LNP,  
19 it took time to gather the pertinent information and to make the decision to seek a  
20 suspension of the requirement from the Commission. Further, the suspension peti-  
21 tion itself took time and effort to prepare because Armour wanted to present as  
22 complete a petition as possible, accompanied by cost information as complete as  
23 possible.

1 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
2 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
3 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
4 cal calls?"

5 A. I believe that Mr. Williams' statement is not consistent with the interconnection  
6 agreement signed by Armour and Western Wireless. Pursuant to that agreement,  
7 Armour did not agree to route traffic destined for Western Wireless to the serving  
8 tandem. Rather, traffic terminating to Western Wireless is routed to an interex-  
9 change carrier. Therefore, it appears that Western Wireless' argument really is a  
10 bad faith attempt to change the agreement between the parties.

11 Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it  
12 is the originating carrier's responsibility to deliver local traffic for termination and that  
13 the costs associated with fulfilling that responsibility are not a number portability cost."  
14 What is your response to this statement?

15 A. Mr. Williams' statements are inconsistent and should be rejected. First he argues  
16 that Armour should be required to install new facilities to deliver ported calls to  
17 Western Wireless and then he argues that the cost of those facilities are not number  
18 portability costs. Further, as discussed at lines 5-15 above, Mr. Williams' suggestion  
19 that it is Armour's responsibility to deliver traffic destined to Western Wireless  
20 through a serving tandem is not consistent with the interconnection agreement be-  
21 tween Armour and Western Wireless.

22 Q. At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
23 Petitioners are inefficient in that they make little or no utilization of existing equipment

1 and shared facilities currently used to exchange calls with other carriers.” How do you  
2 respond?

3 A. The routing methods reflected in the cost exhibit attached to Armour’s Petition are  
4 based on the current routing arrangements that Armour has in place with other  
5 carriers namely, calls that are dialed on a local 7-digit basis are routed via direct  
6 connections. Therefore, if calls to numbers ported to a carrier are to be dialed on a  
7 local 7-digit basis, a direct connection needs to be established between the carriers.

8 Q. Would Western Wireless’ routing proposal have impacts to Armour beyond LNP?

9 A. Yes. It is my understanding that Western Wireless’ proposal would increase Ar-  
10 mour’s costs. First, Western Wireless’ proposal would require Armour to pay for  
11 new facilities to the tandem provider that it does not need for any purpose other  
12 than to route calls to ported numbers to wireless carriers. Second, Armour would  
13 most likely have to pay transit traffic charges to the tandem provider for transport-  
14 ing the traffic to the wireless carriers.

15 Q. Is there any other impact?

16 A. Yes. It appears that Western Wireless’ proposal would create a regulatory arbi-  
17 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
18 wireless carriers are routed to interexchange carriers. For example, if Armour Cus-  
19 tomer A calls a Western Wireless customer, Armour Customer A incurs a toll  
20 charge. However, under Western Wireless’ proposal, it is my understanding that if  
21 Armour Customer A calls a Western Wireless customer with a number ported from  
22 Armour, Armour Customer A would be charged for a local call. Customers may be  
23 encouraged to “give up” their existing wireless numbers and obtain wireline num-



1       bers for the sole purpose of porting that number to avoid toll charges. This is not  
2       only a bad public policy result, but also simply a bad faith attempt to avoid an im-  
3       portant contract provision upon which Western has already agreed with our com-  
4       pany.

5    Q.    Does this conclude your rebuttal testimony?

6    A.    Yes.

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
[tjw@gpgnlaw.com](mailto:tjw@gpgnlaw.com)  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fourteenth day of June, 2004.

---

Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

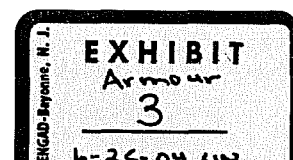
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IN THE MATTER OF THE PETITION  
OF ARMOUR INDEPENDENT TELE-  
PHONE COMPANY, BRIDGEWATER  
CANISTOTA TELEPHONE COMPANY  
AND UNION TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-046

**DIRECT TESTIMONY OF TOM BULLOCK ON BEHALF OF ARMOUR INDE-  
PENDENT TELEPHONE COMPANY, BRIDGEWATER CANISTOTA TELE-  
PHONE COMPANY AND UNION TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF TOM BULLOCK ON BEHALF OF ARMOUR INDEPENDENT TELEPHONE COMPANY, BRIDGEWATER CANISTOTA TELEPHONE COMPANY AND UNION TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Tom Bullock. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508. My telephone number is (402) 441-4315.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "introductory" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to**

**develop the cost as shown on Exhibit 2. Please discuss where in your “introductory” testimony you describe this process.**

- A. The process that was used to compile and develop the cost per line in Exhibit 2 is described on pages six through twenty-one in my “introductory” testimony.

**Q6. What was the source of the data?**

- A. The data was derived from the books, financial records and managers of the RLEC. Data was also obtained from switch vendors, engineering consultants, tariffs, service order administration service bureaus, the number portability administration center, a number portability database provider, and my professional experience.

**Q7. What was the purpose of obtaining that particular data?**

- A. To assist me in preparing an estimate of the costs to implement LNP for the RLEC.

**Q8. Is this the type of data that experts in your field would ordinarily review in formulating an opinion concerning the costs of LNP?**

- A. Yes.

**Q9. What use did you make of the data after you received it from the RLEC?**

- A. I have explained the use of the data on pages eleven through twenty-one of my “introductory” testimony.

**Q10. Have you reached an opinion with a reasonable degree of professional certainty as to the total non-recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC that will be recovered over a 5-year recovery period through an end user surcharge?**

A. Yes. My opinion is that the total non-recurring costs, excluding transport, is \$121,277. Such costs were amortized over a recovery period of 60 months using a rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$2,652.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$1,591 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. The resulting cost per line per month was calculated to be \$1.66.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$27,653 per month. The resulting LNP cost per line, per month, including transport, was calculated to be \$10.79.

**Q14. If FCC determines that transport costs should not be included in the end-user surcharge, will the transport cost still be incurred and who will pay these costs?**

A. Transport costs will have to be incurred to transport calls outside of the RLEC's service area. If the cost is not recovered through an end-user surcharge, and if these costs are not recovered from the wireless carrier, then the only party to pay these costs would be the RLEC.

**Q15. Is it your opinion that the calculations that you have just described fairly and reasonably describe the non-recurring and recurring costs for the RLEC to implement LNP and the end user charges to recover such costs?**

A. Yes.

**Q16. Does this conclude your testimony?**

A. Yes, it does.

**Golden West ABU Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

		With Surcharges & Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 76,075	
Internal Business Procedure Changes	\$ 6,675	
Intercarrier Testing	\$ 1,228	
Other Internal Costs	\$ 35,152	
LNP Query set up	\$ 950	
SOA Non-recurring set up charge	\$ -	
Customer Notification Costs	\$ 1,196	
Total Non-recurring Costs excluding transport	\$ 121,277	
Non recurring transport charges	\$ 18,207	
Total Non-recurring Costs including transport	\$ 139,483	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 225	
LNP Query Costs per month	\$ 750	
Switch Maintenance Costs per month	\$ -	
Other Monthly Costs	\$ 616	
Total Recurring Monthly Costs excluding Transport	\$ 1,591	
Transport	\$ 23,011	
Total Recurring Monthly Costs including Transport	\$ 24,603	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,652	
Total Nonrecurring cost per month including transport amortized over five years	\$ 3,050	
Total cost per month excluding transport	\$ 4,243	
Total cost per month including transport	\$ 27,653	
Access Lines excluding Lifeline	2,948	
LNP cost per line per month excluding transport	\$ 1.44	\$ 1.66
LNP cost per line per month including transport	\$ 9.38	\$ 10.79



**Golden West ABU Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$	76,075
Internal Business Procedure Changes	\$	6,675
Inter-carrier Testing	\$	1,228
Other Internal Costs	\$	35,152
LNP Query set up	\$	950
SOA Non-recurring set up charge	\$	-
Customer Notification Costs	\$	1,196
Total Non-recurring Costs excluding transport	\$	121,277

Non recurring transport charges	\$	18,207
---------------------------------	----	--------

Total Non-recurring Costs including transport	\$	139,483
---	----	---------

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$	225
LNP Query Costs per month	\$	750
Switch Maintenance Costs per month	\$	-
Other Monthly Costs	\$	616
Total Recurring Monthly Costs excluding Transport	\$	1,591

Transport	\$	23,011
-----------	----	--------

Total Recurring Monthly Costs including Transport	\$	24,603
---	----	--------

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$	2,652
Total Nonrecurring cost per month including transport amortized over five years	\$	3,050

Total cost per month excluding transport	\$	4,243
--	----	-------

Total cost per month including transport	\$	27,653
--	----	--------

Access Lines excluding Lifeline		2,948
---------------------------------	--	-------

LNP cost per line per month excluding transport	\$	1.44	\$	1.66
LNP cost per line per month including transport	\$	9.38	\$	10.79

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

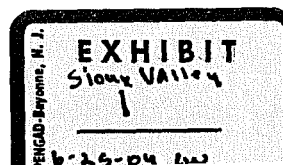
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IN THE MATTER OF THE PETITION  
OF SIOUX VALLEY TELEPHONE  
COMPANY FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-044

DIRECT PRE-FILED TESTIMONY OF  
DENNIS LAW

May 14, 2004



**Direct Pre-Filed Testimony of Dennis Law  
On Behalf of Sioux Valley Telephone Company**

**Q: Please state your business name and address?**

A: My name is Dennis Law. My business address is 525 East Fourth Street, PO Box 98, Dell Rapids, SD 57022. My business telephone is (605) 428-5421.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Sioux Valley Telephone Company (Sioux Valley). Sioux Valley is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 6,020 access lines, including 77 lifeline customers, within its South Dakota service area, which include the exchanges of Dell Rapids, Colton, Humboldt/Montrose, Plankinton, Corsica, Valley Springs and North Larchwood.

**Q: Does your company have any direct point of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: No.

**Q: What is the current method of routing calls from your subscriber's landline phones to wireless phone numbers?**

A: If the Sioux Valley subscriber is calling a wireless phone number that is located outside of Sioux Valley's local calling area or Extended Area Service (EAS) area, the customer must dial the full ten-digit (XXX-XXX-XXXX) number of the wireless phone and the call is routed through the customer's presubscribed Interexchange carrier. If the subscriber is calling a wireless phone number that is

assigned to an exchange with which Sioux Valley has an EAS agreement, the customer may dial the wireless phone number as a local call (XXX-XXXX). Sioux Valley currently has EAS agreements with Qwest Communications (Sioux Falls exchange) and Midstate Communications (New Holland exchange).

**Q: What is the number of wireless carriers providing service in your company's service area?**

A: Wireless carriers believed to be providing service are:

1. Cellular One/Western Wireless
2. Verizon Wireless
3. Nextel
4. Sprint PCS/Swiftel
5. Unice

**Q: Have any subscribers requested local number portability (LNP) from your company?**

A: There have been no subscriber requests for local number portability.

**Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever requested LNP from your company?**

A: No.

**Q: Have any wireless carriers requested LNP and if so when?**

A: Yes.

**Q: How much time would be required for your company to provide LNP, if ordered by the Commission?**

A: Sioux Valley has not completed a specific implementation time line yet, but implementation will take a considerable amount of time.

**Q: In your experience as the general manger of Sioux Valley, have you seen increases or additions to the itemized fees on your customer's telephone bills?**

A: Yes.

**Q: What do you expect your customer's reaction to be to any new LNP fees on their bills?**

A. I would expect the reaction to be negative.

**Q: Is the public interest, convenience, and necessity served by requiring your company to implement LNP at this time?**

A, No, due to lack of demand as stated in earlier answer.

**Q: Does this conclude your direct testimony?**

A: Yes

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

---

IN THE MATTER OF THE PETITION  
OF SIOUX VALLEY TELEPHONE  
COMPANY FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-044  
  
REBUTTAL TESTIMONY OF  
  
DENNIS LAW

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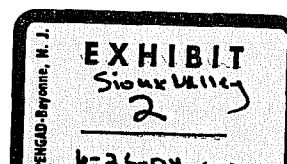
REBUTTAL TESTIMONY OF

DENNIS LAW

ON BEHALF OF

SIOUX VALLEY TELEPHONE COMPANY

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Dennis Law. I am the General Manager of Sioux Valley Telephone  
3 Company ("Sioux Valley"), whose address is 525 East Fourth Street, Dell Rapids,  
4 South Dakota 57022.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Sioux  
15 Valley took immediate steps to investigate the cost and the processes involved with  
16 LNP and to explore its legal options. Because Sioux Valley had no experience with  
17 LNP, it took time to gather the pertinent information and to make the decision to  
18 seek a suspension of the requirement from the Commission. Further, the suspension  
19 petition itself took time and effort to prepare because Sioux Valley wanted to pre-  
20 sent as complete a petition as possible, accompanied by cost information as complete  
21 as possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
24 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
25 cal calls?"

1    **A.    I believe that Mr. Williams' statement is not consistent with the interconnection**  
2       **agreement signed by Sioux Valley and Western Wireless. Pursuant to that agree-**  
3       **ment, Sioux Valley did not agree to route traffic destined for Western Wireless to**  
4       **the serving tandem. Rather, traffic terminating to Western Wireless is routed to an**  
5       **interexchange carrier. Therefore, it appears that Western Wireless' argument**  
6       **really is a bad faith attempt to change the agreement between the parties.**

7    **Q.    At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it**  
8       **is the originating carrier's responsibility to deliver local traffic for termination and that**  
9       **the costs associated with fulfilling that responsibility are not a number portability cost."**  
10       **What is your response to this statement?**

11   **A.    Mr. Williams' statements are inconsistent and should be rejected. First he argues**  
12       **that Sioux Valley should be required to install new facilities to deliver ported calls to**  
13       **Western Wireless and then he argues that the cost of those facilities are not number**  
14       **portability costs. Further, as discussed at lines 3-13 above, Mr. Williams' suggestion**  
15       **that it is Sioux Valley's responsibility to deliver traffic destined to Western Wireless**  
16       **through a serving tandem is not consistent with the interconnection agreement be-**  
17       **tween Sioux Valley and Western Wireless.**

18   **Q.    At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the**  
19       **Petitioners are inefficient in that they make little or no utilization of existing equipment**  
20       **and shared facilities currently used to exchange calls with other carriers." How do you**  
21       **respond?**

22   **A.    The routing methods reflected in the cost exhibit attached to Sioux Valley's Petition**  
23       **are based on the current routing arrangements that Sioux Valley has in place with**  
24       **other carriers namely, calls that are dialed on a local 7-digit basis are routed via di-**  
25       **rect connections. Therefore, if calls to numbers ported to a carrier are to be dialed**



1 on a local 7-digit basis, a direct connection needs to be established between the car-  
2 riers.

3 Q. Would Western Wireless' routing proposal have impacts to Sioux Valley beyond LNP?

4 A. Yes. It is my understanding that Western Wireless' proposal would increase Sioux  
5 Valley's costs. First, Western Wireless' proposal would require Sioux Valley to pay  
6 for new facilities to the tandem provider that it does not need for any purpose other  
7 than to route calls to ported numbers to wireless carriers. Second, Sioux Valley  
8 would most likely have to pay transit traffic charges to the tandem provider for  
9 transporting the traffic to the wireless carriers.

10 Q. Is there any other impact?

11 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
12 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
13 wireless carriers are routed to interexchange carriers. For example, if Sioux Valley  
14 Customer A calls a Western Wireless customer, Sioux Valley Customer A incurs a  
15 toll charge. However, under Western Wireless' proposal, it is my understanding  
16 that if Sioux Valley Customer A calls a Western Wireless customer with a number  
17 ported from Sioux Valley, Sioux Valley Customer A would be charged for a local  
18 call. Customers may be encouraged to "give up" their existing wireless numbers  
19 and obtain wireline numbers for the sole purpose of porting that number to avoid  
20 toll charges. This is not only a bad public policy result, but also simply a bad faith  
21 attempt to avoid an important contract provision upon which Western has already  
22 agreed with our company.

23 Q. Does this conclude your rebuttal testimony?

24 A. Yes.

CERTIFICATE OF SERVICE

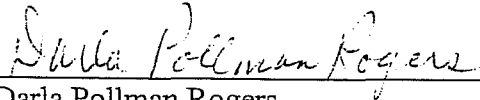
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Dated this fourteenth day of June, 2004.

  
\_\_\_\_\_  
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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

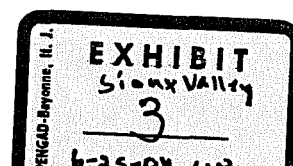
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IN THE MATTER OF THE PETITION  
OF SIOUX VALLEY TELEPHONE  
COMPANY FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-044

**DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF SIOUX VALLEY TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF SIOUX VALLEY TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Tom Bullock. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508. My telephone number is (402) 441-4315.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "introductory" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to develop the cost as shown on Exhibit 2. Please discuss where in your "introductory" testimony you describe this process.**

A. The process that was used to compile and develop the cost per line in Exhibit 2 is described on pages six through twenty-one in my “introductory” testimony.

**Q6. What was the source of the data?**

A. The data was derived from the books, financial records and managers of the RLEC. Data was also obtained from switch vendors, engineering consultants, tariffs, service order administration service bureaus, the number portability administration center, a number portability database provider, and my professional experience.

**Q7. What was the purpose of obtaining that particular data?**

A. To assist me in preparing an estimate of the costs to implement LNP for the RLEC.

**Q8. Is this the type of data that experts in your field would ordinarily review in formulating an opinion concerning the costs of LNP?**

A. Yes.

**Q9. What use did you make of the data after you received it from the RLEC?**

A. I have explained the use of the data on pages eleven through twenty-one of my “introductory” testimony.

**Q10. Have you reached an opinion with a reasonable degree of professional certainty as to the total non-recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC that will be recovered over a 5-year recovery period through an end user surcharge?**

A. Yes. My opinion is that the total non-recurring costs, excluding transport, is \$103,671. Such costs were amortized over a recovery period of 60 months using

a rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$2,267.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$1,933 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. The resulting cost per line per month was calculated to be \$0.81.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$17,088 per month. The re-

sulting LNP cost per line, per month, including transport, was calculated to be \$3.31.

**Q14. If FCC determines that transport costs should not be included in the end-user surcharge, will the transport cost still be incurred and who will pay these costs?**

A. Transport costs will have to be incurred to transport calls outside of the RLEC's service area. If the cost is not recovered through an end-user surcharge, and if these costs are not recovered from the wireless carrier, then the only party to pay these costs would be the RLEC.

**Q15. Is it your opinion that the calculations that you have just described fairly and reasonably describe the non-recurring and recurring costs for the RLEC to implement LNP and the end user charges to recover such costs?**

A. Yes.

**Q16. Does this conclude your testimony?**

A. Yes, it does.

**Sioux Valley Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 63,114
Internal Business Procedure Changes	\$ 17,815
Intercarrier Testing	\$ 3,939
Other Internal Costs	\$ 15,065
LNP Query set up	\$ 380
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 2,358
Total Non-recurring Costs excluding transport	<u>\$ 103,671</u>

Non recurring transport charges	\$ 8,403
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Total Non-recurring Costs including transport	<u>\$ 112,074</u>
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 300
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 1,233
Total Recurring Monthly Costs excluding Transport	<u>\$ 1,933</u>

Transport	\$ 12,704
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Total Recurring Monthly Costs including Transport	<u>\$ 14,637</u>
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,267
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,451

Total cost per month excluding transport	\$ 4,200
Total cost per month including transport	\$ 17,088

Access Lines excluding Lifeline	5,944
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LNP cost per line per month excluding transport	\$ 0.71	\$ 0.81
LNP cost per line per month including transport	\$ 2.87	\$ 3.31



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITIONS  
OF SIOUX VALLEY TELEPHONE  
COMPANY; GOLDEN WEST TELE-  
COMMUNICATIONS COOPERATIVE,  
INC., VIVIAN TELEPHONE COMPANY  
AND KADOKA TELEPHONE COM-  
PANY; ARMOUR INDEPENDENT  
TELEPHONE COMPANY, BRIDGE-  
WATER CANISTOTA TELEPHONE  
COMPANY AND UNION TELEPHONE  
COMPANY; MCCOOK COOPERATIVE  
TELEPHONE COMPANY; VALLEY  
TELECOMMUNICATIONS COOPERA-  
TIVE ASSOCIATION, INC.; FAITH  
MUNICIPAL TELEPHONE COMPANY;  
ALLIANCE COMMUNICATIONS  
COOP., INC. AND SPLITROCK PROP-  
ERTIES, INC.; AND TRI COUNTY  
TELECOM INC. FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-044  
Docket No. TC04-045  
Docket No. TC04-046  
Docket No. TC04-049  
Docket No. TC04-050  
Docket No. TC04-051  
Docket No. TC04-055  
Docket No. TC04-084

INTRODUCTORY TESTIMONY OF TOM BULLOCK  
ON BEHALF OF THE ABOVE-NAMED COMPANIES

May 14, 2004



1  
2 **IDENTIFICATION OF WITNESS, FACTUAL BACKGROUND**  
3 **AND PURPOSE OF TESTIMONY**  
4

5 A. Witness Background  
6

7 Q. **What is your Name, Employer, Business Address and Telephone Number?**  
8

9 A. My name is Tom Bullock. I am employed with TELEC Consulting Resources,  
10 Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln, Nebraska  
11 68508. My telephone number is (402) 441-4315.

12 Q. **On whose behalf are you testifying?**  
13

14 A. I am testifying on behalf of the Companies identified in Exhibit A attached to this  
15 testimony. I will refer to the Companies listed on Exhibit A as the "RLECs."  
16 Each of the RLECs provides local telephone exchange service and exchange ac-  
17 cess services in rural areas of South Dakota. Each of the RLECs is engaged in the  
18 provision of general telecommunications services in the State of South Dakota.

19 Q. **What is your current position?**  
20

21 A. I am a consultant at TELEC Consulting Resources, Inc.  
22

23 Q. **What are your duties and responsibilities at TELEC Consulting Resources?**  
24

25 A. I am responsible for consulting with clients regarding technical and regulatory  
26 issues and for analyzing and modeling various kinds of costs related to telecom-  
27 munications.

28 Q. **What was your professional experience prior to your current position?**  
29

30 A. Prior to my current position I worked in the telecommunications industry for 19  
31 years. I served at Aliant Communications (later merged with ALLTEL) in its En-

1           gineering, Network Operations, Marketing and Information Systems departments,  
2           and held a variety of technical and management positions.

3   Q.     **What is your educational background?**

4  
5   A.     I hold a Master of Science degree in physics from the University of Nebraska-  
6           Lincoln and a Bachelor of Science degree in physics from the University of  
7           Michigan-Ann Arbor. I also attended Nebraska Wesleyan University for two  
8           years prior to transferring to the University of Michigan.

9   Q.     **What is the purpose of your testimony?**

10  
11   A.     The purpose of my testimony is to offer support for the estimate of costs accom-  
12           panying the Petition that each of the RLECs filed pursuant to Section 251(f)(2) of  
13           the Telecommunications Act of 1934 as amended ("the Act") and South Dakota  
14           Codified Laws SDCL § 49-31-80, amended as shown on Exhibit 2 attached to this  
15           testimony. This cost estimate constitutes the basis for each RLEC's contention  
16           that a suspension or modification of the Local Number Portability ("LNP") re-  
17           quirement is necessary, pursuant to Section 251(f)(2)(A)(i) of the Act, to avoid a  
18           significant adverse economic impact on telecommunications users generally or,  
19           pursuant to Section 251(f)(2)(A)(ii), to avoid imposing a requirement that is un-  
20           duly economically burdensome. This cost estimate represents the collection of  
21           those costs that would be incurred in the provision of LNP. I will explain the  
22           manner in which these cost estimates were developed.

23   Q.     **What aspects of your professional experience did you use in preparing your**  
24           **testimony today?**

25  
26   A.     During my career with Aliant Communications, I served with a small group of  
27           individuals responsible for creating and developing a new data communications

1 business unit within the larger corporation. My seven years with this data com-  
2 munications division, during which it grew from three to over fifteen people,  
3 gave me extensive personal experience in conceptualizing, developing and im-  
4 plementing new business procedures for a small organization in which I had direct  
5 management duties. I held the positions of Data Communications Engineer, En-  
6 gineering & Operations Supervisor and Manager within the division. At a later  
7 stage in my career, I assisted Aliant's Engineering and Network Operations de-  
8 partments in adapting several of its information systems to newly designed busi-  
9 ness processes, as part of the company's "Business Process Re-engineering" pro-  
10 gram, intended to streamline Aliant's internal operations. Toward the end of my  
11 career at Aliant, I developed and utilized software to automatically extract data  
12 from one type of telephone switch, convert its format, and load it into a different  
13 type of switch, in connection with a series of major central office conversion pro-  
14 jects the company had undertaken. More recently, as a consultant, I have com-  
15 piled and analyzed the cost data necessary to file tariffs at both the state and fed-  
16 eral levels on behalf of small telephone companies. I participated with other  
17 TELECOM staff in the collection and analysis of data necessary to develop each  
18 RLEC's estimates of the cost of implementing LNP. As part of this analysis, I  
19 developed mathematical functions to model certain categories of costs associated  
20 with LNP implementation.

## 21 OVERVIEW OF LNP PROCESSES AND METHODS OF ESTIMATING COSTS

22 Q. Can you provide a general overview of the network interconnections re-  
23 quired for LNP and some of the processes involved with porting a telephone  
24 number?  
25

1 A. Yes. Exhibit B, attached to this testimony, is a pictorial representation of the  
2 principal network architectural features required for LNP. This sketch shows two  
3 service providers and the LNP-related interfaces each must establish in order to  
4 port a telephone number from one (the “Old SP” - oval on the left) to the other  
5 (the “New SP” – oval on the right). The process of porting a number begins when  
6 a customer of the Old SP, represented by the telephone set near the middle of the  
7 figure, contacts the New SP and asks to have his telephone number ported to the  
8 New SP. (In the case of wireline-to-wireless porting, the customer’s wireline  
9 number would be ported to a wireless handset served by the wireless carrier -  
10 large “TN port” arrow from telephone set to wireless handset). The New SP will  
11 then send a Local Service Request (“LSR”) to the Old SP, typically via fax trans-  
12 mission, requesting that the customer’s number be ported. The Old SP validates  
13 the information on the LSR, responds to the New SP with a Firm Order Confirma-  
14 tion (“FOC”) and executes a transaction with its contracted LNP Service Order  
15 Administrator (“SOA”), who in turn updates the appropriate regional database  
16 operated by the Number Portability Administration Center (“NPAC”), thereby es-  
17 tablishing an initial pending record (called a “subscription version”) in the master  
18 database shared by all carriers in the region. All carriers participating in LNP  
19 must either utilize the services of an NPAC-certified SOA, or establish their own  
20 NPAC-certified SOA function internally. After the New SP receives the FOC, it  
21 will perform a similar function (likely using a SOA different from that used by the  
22 Old SP) to update the same regional NPAC database. If there is any material dis-  
23 crepancy between the records submitted by the two SPs, the NPAC’s Service

1 Management System ("SMS") will not allow the port to proceed until the discrep-  
2 ancy is resolved. On the due date, the New SP will send another message to the  
3 NPAC to request that the port be "activated." If no errors or discrepancies exist  
4 among the NPAC records associated with the porting request, the NPAC will ac-  
5 tivate the port by sending a message to all the contracted LNP Query service pro-  
6 viders in the region, causing them to establish a new record in their databases that  
7 associates the ported telephone number with the New SP. More precisely, the  
8 new record in these databases associates the ported number with the Location  
9 Routing Number ("LRN") of the New SP's switch that now serves the number,  
10 which may have now become a wireless number. During call processing in a  
11 switch that has been made LNP-capable, the switch must launch LNP queries to  
12 such a database to retrieve the LRN for any ported number. The LRN is used by  
13 all switches in the call train in place of the dialed digits to route the call to the  
14 proper terminating switch. Finally, the diagram on Exhibit B shows trunk links  
15 required to transport such calls from carrier to carrier. Solid lines represent trunks  
16 in place today that carry toll traffic. The dotted line connecting the two ovals  
17 represents a direct trunk link that may or may not be in place between the Old SP  
18 and the New SP.

19 Q. **What process did you use to prepare the cost estimates shown in Exhibit 1 as**  
20 **filed for each of the RLECs and those estimates shown in Exhibit 2, attached**  
21 **to your testimony?**

22 A. There were four stages of activity involved in preparing the cost estimates shown  
23 in Exhibit 1, and a fifth stage involved in preparing the Exhibit 2 estimates. First,  
24 shortly after the FCC released its November 10, 2003 Order on wireline to wire-

1 less LNP, TELEC Consulting staff, together with management personnel of sev-  
2 eral small rural telephone companies, began to analyze the effect that the provi-  
3 sion of wireline to wireless LNP would have on such a company's internal opera-  
4 tions and to identify the kinds of new costs that would arise from LNP implemen-  
5 tation. We specifically discussed and analyzed LNP network architecture issues,  
6 switch software and technical network interface requirements, administrative re-  
7 quirements of the NPAC, SOA service bureau options, internal provisioning proc-  
8 esses, LNP database query services and cost recovery issues including the LNP  
9 End User charge. In addition, we analyzed various call flow scenarios in a num-  
10 ber porting environment and recognized that certain transport facilities must also  
11 be in place to fully support wireline to wireless LNP. Second, TELEC asked rep-  
12 resentatives of this group of telephone companies to estimate their costs for im-  
13 plementing the capabilities and performing the activities required for LNP that we  
14 had identified at that time. Our analysis of the responses suggested that costs in  
15 some categories could be reasonably represented as functions of company size.  
16 Third, using these company-provided estimates as a guide, TELEC developed a  
17 model to calculate estimates for those cost categories, derived from basic com-  
18 pany facts, such as number of customers, number of employees and wage rates,  
19 and using a common set of methods applied to all companies. We also developed  
20 a data request form that could be used as a source of input data for the model. A  
21 paper copy of that form, the Excel workbook **LNPCostDataRequest.xls**, is at-  
22 tached to this testimony as Exhibit C1; its accompanying instructions are attached  
23 as Exhibit C2. Fourth, TELEC obtained from each of the RLECs a copy of the

1        **LNPCostDataRequest.xls** form, filled in with the company's own data. In those  
2 cases where a group of operating companies elected to jointly file a petition with  
3 this Commission, data from the companies was merged into a single Excel file for  
4 the group. Using this data as input, the output from TELEC's cost model consti-  
5 tuted the cost estimates shown on Exhibit 1 as filed with the RLECs' petitions.  
6 Fifth, and following the filing of the petitions, TELEC made several refinements  
7 to our cost estimates in several categories. We investigated the LNP software  
8 pricing policies applied by the vendors of the switches used in the RLECs' net-  
9 works – namely, the Nortel DMS-10, the Siemens DCO and the Mitel GX-5000.  
10 We adjusted downward our estimates of SOA costs to account for lower cost  
11 SOA options that we investigated after the filing of the petitions. We verified cir-  
12 cuit mileages, applicable tariffs and connectivity requirements in our estimates of  
13 transport costs. We corrected estimates of database query costs. We made ex-  
14 plicit assumptions about the quantity of telephone numbers that each RLEC  
15 would port out each month, based on the number of the RLEC's access lines,  
16 which led to a specific choice of SOA option and SOA cost estimates for each  
17 RLEC, and to an estimate of monthly expense incurred to port these telephone  
18 numbers to a competing wireless carrier. The results of these adjustments are re-  
19 flected in the cost estimates shown on Exhibit 2, attached to this testimony.

20    Q.    **What information did TELEC collect from each RLEC using the Excel file**  
21           **LNPCostDataRequest.xls?**

22    A.    TELEC asked each RLEC to obtain from its switch vendor or engineering con-  
23           sultant a price quote for LNP capability in each of its switches, and to provide  
24           TELEC with information from that price quote. TELEC asked each company to  
25



1 estimate the increase in annual switch maintenance expense it would incur as a  
2 consequence of having installed LNP capability in its switches. TELEC also  
3 asked each company to also provide the following general information about its  
4 operations and its neighboring wireless competitors. Regarding its own opera-  
5 tions, we asked for:

- 6 1. Number of access lines in service;
- 7 2. Number of Lifeline customers;
- 8 3. Number of employees having certain job titles that would be involved  
9 with LNP implementation;
- 10 4. Average loaded wage rates, including benefits and overheads, for em-  
11 ployees in those job titles.

12 Regarding neighboring wireless competitors, we asked for:

- 13 5. Identity of wireless carriers that have sent the company a request for  
14 LNP;
- 15 6. Identity of other wireless carriers with coverage in the company's ser-  
16 vice area;
- 17 7. Identity of wireless carriers with existing direct trunks connecting to  
18 the company's switching network.

19 And to allow us to estimate transport costs, we asked for:

- 20 8. Airline mileage from the company's switches to the nearest LATA  
21 tandem location.

22 Q. **What is the common set of methods applied to all companies that you re-**  
23 **ferred to earlier?**  
24

1 A. TELEC used two sets of methods: one set for the cost estimates filed with each of  
2 the RLEC's petitions as Exhibit 1, and a different set for the cost estimates at-  
3 tached to this testimony as Exhibit 2. In each case, the methods fall into ten cate-  
4 gories, corresponding to individual line items on Exhibit 1 and Exhibit 2. These  
5 categories are as follows:

- 6 1. Switch Upgrade Costs
- 7 2. Internal Business Procedure Changes
- 8 3. Inter-carrier Testing
- 9 4. Other Internal Costs
- 10 5. LNP query services, including:
  - 11 a. LNP Query set up
  - 12 b. LNP Query Costs per month
- 13 6. SOA services, including:
  - 14 a. SOA Non-recurring set up charge
  - 15 b. SOA Monthly Charge
- 16 7. Customer Notification Costs
- 17 8. Switch Maintenance Costs per month
- 18 9. Other Monthly Costs
- 19 10. Transport costs, including:
  - 20 a. Non recurring transport charges
  - 21 b. Transport (i.e. monthly recurring transport charges)

22 **CATEGORIES OF ESTIMATED COSTS**

23 Q. What costs are included in the "Switch Upgrade Costs" category?  
24

1     A.     In order for a telephone number to be ported out of one service provider's switch  
2           to a different service provider's switch, both switches must be capable of execut-  
3           ing a number of functions that are essential to the proper routing of calls to ported  
4           numbers. These functions include (1) querying an internal database to determine  
5           whether a locally dialed number belongs to a ported NPA-NXX; (2) launching an  
6           SS7 Transaction Capabilities Application Part ("TCAP") query to a provider of  
7           LNP database query services, to retrieve the LRN of the new service provider's  
8           switch; (3) manipulation of the SS7 ISDN User Part ("ISUP") message, sent to es-  
9           tablish trunking resources for the call - in order that downstream switches are  
10          made aware of the fact that a query has already been performed and so that the  
11          new service provider's switch can properly terminate the call to the originally di-  
12          aled number; and (4) routing the call from the originating switch to the correct  
13          outgoing trunk group for the specific LRN associated with the new service pro-  
14          vider's switch. The first three of these functions are provided through the installa-  
15          tion of LNP software that switch manufacturers have made available to their cus-  
16          tomers, including the RLECs. The fourth function is provided through manual  
17          updates to internal switch translation tables that control the routing of telephone  
18          numbers to outgoing trunk facilities. The "Switch Upgrade Costs" category in-  
19          cludes both the cost of installing the manufacturer's LNP software, and of per-  
20          forming the necessary translation changes, in each RLEC's Host and Stand-Alone  
21          switches. Translations for Remote switches must be performed in the controlling  
22          Host.

23     Q.     **What method did TELEC use to estimate the "Switch Upgrade Costs" cate-**  
24           **gory, for Exhibit 1 and for Exhibit 2?**

1  
2 A. For Exhibit 1, TELEC obtained from each company an estimate of the cost of  
3 purchasing and installing the necessary hardware and/or software to provide LNP  
4 capability and of performing the necessary switch translation table changes  
5 needed to route calls to ported numbers. We used the data that each company  
6 provided on the **Switch&Transport** sheet of **LNPCostDataRequest.xls**, simply  
7 totaling the dollar amounts in the two columns labeled “Vendor upgrade price for  
8 LNP capability” and “LNP Installation Costs (internal and/or external)” to pro-  
9 duce a total “Switch Upgrade Cost.” For Exhibit 2, we investigated the LNP pric-  
10 ing policy used by the manufacturer of each RLEC’s switches and asked each  
11 company to provide us with the company-specific information needed to apply  
12 those policies, such as a count of equipped lines or switch ports, and whether the  
13 RLEC participates in the manufacturer’s annual-fee software maintenance pro-  
14 gram. We also verified whether or not each RLEC already had LNP capability in  
15 some or all of its switches. We then determined that the Switch Upgrade Cost in-  
16 curred for providing LNP should be the sum of the following items:

- 17 1. Either:
- 18 a. The amount shown on a vendor price quotation provided to the RLEC,  
19 if that quotation clearly indicated that only LNP capability was being  
20 provided for in the quotation; or, otherwise,
- 21 b. The result of a straightforward application of the switch manufac-  
22 turer’s LNP pricing policy for the RLEC in question; and
- 23 2. A uniform cost for having switch translations performed by an outside en-  
24 gineering firm; and

1                   3. A uniform cost for the company's own technicians' participation in the  
2                   translations work.

3    Q.    **What costs are represented by the "Internal Business Procedure Changes"**  
4           **category?**

5  
6    A.    These are the costs associated with modifying an RLEC's internal business pro-  
7           cedures so that the RLEC can respond in a timely and reliable manner to a request  
8           from a competing service provider to port an individual telephone number.

9  
10   Q.    **What method did TELEC use to estimate the "Internal Business Procedure**  
11           **Changes" category, for Exhibit 1 and for Exhibit 2?**

12  
13   A.    TELEC used the same method for Exhibit 1 and Exhibit 2. TELEC organized  
14           these costs into ten subcategories and determined that the costs in each subcate-  
15           gory could be reasonably estimated using mathematical functions of three kinds  
16           of variables: (1) an RLEC's count of access lines, (2) the quantities of personnel  
17           the RLEC employs with certain job titles, and (3) the wage rates of those employ-  
18           ees.

19  
20           TELEC identified four general types of routine activity associated with porting a  
21           number for which an RLEC would need to develop new internal business proce-  
22           dures:

23           1. receiving an LSR from the competing carrier and responding with an

24           FOC;

25           2. interfacing with a SOA for entry of data into the NPAC's regional number  
26           portability database;

- 1           3. performing switch updates, such as applying an unconditional 10-digit
- 2           trigger, for the ported number; and
- 3           4. maintaining historical records, such as a database of all numbers that have
- 4           been ported out to other carriers.

5           The costs estimated here are those costs associated with planning for and estab-  
6           lishing the procedures to be followed in performing these activities – not the costs  
7           of actually performing them on a routine basis.

8  
9           TELEC also identified five types of preparatory activity needed to formulate an  
10          overall company plan for LNP implementation, to train personnel in the number  
11          porting procedures described above, and to put into place various information  
12          management tools. These preparatory activities are:

- 13          1. general initial process planning;
- 14          2. training of technicians;
- 15          3. training of customer service representatives;
- 16          4. modification of the company's billing system to add an LNP End User
- 17             Charge; and
- 18          5. other computer programming.

19  
20          Finally, TELEC recognized that time would be needed to establish procedures for  
21          resolution of problems that occur after a port has been completed and tested, such  
22          as network routing problems that are unrelated to an individual customer's num-  
23          ber porting event, but which affect ported numbers, either predominantly or ex-  
24          clusively. We labeled this activity "set up troubleshooting procedures."

TELEC associated each of these ten activities with the job titles typically held in a small telephone company, and estimated the minimum number of hours that a person holding a specific job title would need to spend working on that activity - in a very small organization with no overhead costs of supervision or interpersonal communications, and with minimum complexity.

The job titles TELEC associated with these activities are: General Manager, Customer Service Supervisor, Engineering Supervisor, Operations Supervisor, Office Manager, Switch Engineer, Switch Technician, Computer Programmer, Customer Service Representative and Office Assistant. TELEC requested that each company provide quantities of employees holding each of these job titles and the average loaded wage rate for each job title on the **StaffInfo** sheet of **LNPCostDataRequest.xls**.

We then assigned a logarithmic, “company-size” scale-up coefficient to each activity to represent the degree to which employees of a larger company would spend more time on that activity than employees of a smaller company would spend. These coefficients account for the additional overhead associated with management, supervision and interpersonal communications, and the greater administrative complexity, associated with larger organizations when implementing and adapting to new procedures. This coefficient was multiplied by the base-ten logarithm of the company’s number of access lines to produce a company-specific scale-up factor for each activity, according to the following formula:

$$F_A = 1 + C_A * \log_{10}(L)$$

1  
2 where:

3  $F_A$  is the scale-up factor for activity A;

4  $C_A$  is the scale-up coefficient for activity A;

5  $\log_{10}(x)$  is the base-ten logarithm of x;

6 L is the number of the company's access lines.

7  
8 Exhibit D, attached to this testimony, shows, for each activity, the scale-up coeffi-  
9 cients and, for each activity and job title, the estimated minimum hours spent on  
10 that activity by a person with that job title.

11  
12 For each activity, the estimated actual time spent on that activity by each person  
13 holding a particular job title is the product of the estimated minimum time for that  
14 activity and job title with the scale-up factor for that activity. The contribution of  
15 a particular job title toward the cost of each activity is the product of the follow-  
16 ing three factors: the estimated actual time spent per person on that activity, the  
17 number of people holding that job title, and that job title's average loaded wage  
18 rate. The total cost of each activity is the sum of the contributions of all job titles.

19  
20 The total cost of Internal Business Procedure Changes is the sum of the costs of  
21 all activities.

22  
23 Q. **What costs are included in the "Intercarrier Testing" category?**

24  
25 A. The costs included in this category are labor costs incurred to test all of the port-  
26 ing processes prior to processing the first porting request and to troubleshoot any  
27 problems that may occur during the initial phases of LNP implementation. Dan  
28 Davis has described in his testimony the need for intercarrier testing.

29 Q. **What method did TELEC use to estimate the "Intercarrier Testing" cate-**  
30 **gory, for Exhibit 1 and for Exhibit 2?**



1  
2 A. TELEC estimated, for both Exhibits, that each RLEC would need to devote 120  
3 man-hours to this activity. For most RLECs, we assumed that forty hours would  
4 be spent by the Customer Services Supervisor, forty man-hours by one or more  
5 switch technicians and forty man-hours by one or more Customer Service Repre-  
6 sentatives. For RLECs that lack one or more of these job titles, we assigned this  
7 activity to a different job title that the RLEC does use. We applied the wage rates  
8 that each RLEC reported to us to calculate a total cost for this activity.

9  
10 Q. **What costs are included in the “Other Internal Costs” category?**

11  
12 A. The costs that are included in this category are regulatory, consulting, and legal  
13 costs. These are costs that are incurred to negotiate and establish agreements with  
14 the NPAC, with each RLEC's selected SOA service bureau and LNP Query ser-  
15 vice provider, and with service providers requesting LNP. Also included in this  
16 category are costs associated with completing intercarrier porting forms and trad-  
17 ing partner profile forms with service providers requesting LNP; developing cost  
18 support for, writing and filing with the FCC a tariff for the LNP End User charge;  
19 and general education of the company's management regarding LNP implementa-  
20 tion.

21 Q. **What method did TELEC use to estimate the “Other Internal Costs” cate-**  
22 **gory, for Exhibit 1 and for Exhibit 2?**

23  
24 A. TELEC determined, for both Exhibits, that each RLEC's General Manager would  
25 need to devote a certain number of hours to these activities and that each RLEC  
26 would also hire outside engineers and/or regulatory consultants as well as attor-  
27 neys to assist with this work. The specific number of man-hours we estimated

1 would be required for each activity are summarized in Exhibit E, attached to this  
2 testimony.

3 Q. **What costs are included in the “LNP Query set up” and “LNP Query Costs**  
4 **per month” categories?**

5  
6 A. These are the initial and ongoing monthly fees paid to a provider of LNP Query  
7 services. As I explained earlier, one of the architectural requirements of LNP is  
8 that switches must be able to launch queries over the SS7 network for retrieval of  
9 the LRN of a ported number, in order to properly route a call to such a ported  
10 number to its correct terminating switch.

11 Q. **What method did TELEC use to estimate the “LNP Query set up” and “LNP**  
12 **Query Costs per month” categories, for Exhibit 1 and for Exhibit 2?**

13  
14 A. TELEC contacted several providers of LNP Query services to learn about their  
15 pricing policies. In general, LNP Query services include a set-up fee and recur-  
16 ring monthly charges. The recurring charges are priced at a small fraction of a  
17 cent per query, for a unique Originating Point Code, meaning that costs are in-  
18 curred separately for each Host switch and each Stand-Alone switch in an RLEC's  
19 network.. Also typical of LNP Query service pricing is that there is a minimum  
20 monthly charge per Originating Point Code. Rather than try to estimate the quan-  
21 tities of queries that each switch would launch, TELEC used the monthly mini-  
22 mum charge of a well established service provider to estimate these costs. For  
23 Exhibit 1, we failed to account for the fact that the service provider would charge  
24 this minimum for each switch, assuming that the monthly minimum applied to the  
25 company as a whole. This error was corrected in Exhibit 2.

1 Q. **What costs are included in the "SOA Non-recurring set-up charge" and**  
2 **"SOA Monthly Charge" categories?**

3  
4 A. These are the initial and ongoing monthly fees paid to a provider of LNP SOA  
5 services. As I explained earlier, all carriers participating in LNP must either util-  
6 ize the services of an NPAC-certified SOA, or establish their own NPAC-certified  
7 SOA function internally.

8 Q. **What method did TELEC use to estimate the "SOA Non-recurring set-up**  
9 **charge" and "SOA Monthly Charge" categories, for Exhibit 1 and for Ex-**  
10 **hibit 2?**

11  
12 A. TELEC assumed that none of the RLECs would implement its own SOA and  
13 would therefore need to utilize a SOA service bureau. For Exhibit 1, we used the  
14 average of the SOA fees charged by two well established SOA service bureaus.  
15 For Exhibit 2, we used two lower-cost options, referred to below as "SOA Option  
16 A" and "SOA Option B," offered by a third service bureau, designed expressly for  
17 small telephone companies. We assumed that the smallest RLECs would use  
18 SOA Option A and that larger RLECs would use SOA Option B. The monthly  
19 cost of SOA Option A varies with the quantity of number porting transactions  
20 performed each month. We estimated that each number porting event would re-  
21 quire three such transactions to complete the port. We assumed that RLECs with  
22 more access lines would port more numbers each month than would those with  
23 fewer access lines. Our assumptions about which SOA Option - A or B - that an  
24 RLEC would utilize, and the quantity of number porting events it would execute  
25 each month, are summarized in Exhibit F, attached to this testimony.

26 Q. **What costs are included in the "Customer Notification Costs" category?**  
27

1 A. These are costs that will be incurred to notify each customer of the LNP End User  
2 charge that will be assessed on his monthly bill as well as any other line item on  
3 the bill that may increase as the result of LNP implementation.

4 Q. **What method did TELEC use to estimate the “Customer Notification Costs”**  
5 **category, for Exhibit 1 and for Exhibit 2?**

6  
7 A. TELEC determined, for both Exhibits, that this cost could be reasonably esti-  
8 mated using a mathematical function of the quantity of access lines served by the  
9 RLEC. The function that TELEC used to estimate this cost is:

10 
$$\$500 + [ \$0.37 \times ( \text{Lines} ) ] + [ \text{SQRT}( \text{Lines} ) \times \$2.50 ]$$

11  
12 Q. **What costs are included in the “Switch Maintenance Costs per month” cate-**  
13 **gory?**

14  
15 A. These are additional fees that a switch manufacturer would charge for software  
16 maintenance and technical support, due to the addition of LNP capability in each  
17 switch.

18 Q. **What method did TELEC use to estimate the “Switch Maintenance Costs per**  
19 **month” category, for Exhibit 1 and for Exhibit 2?**

20  
21 A. For Exhibit 1, TELEC obtained from each company an estimate of the increase in  
22 its switch maintenance costs due to the addition of LNP capability in its switches.  
23 During our discussions with representatives of the three switch manufacturers that  
24 provide the RLECs’ switching equipment, we learned that none of them would  
25 increase the fees charged for software maintenance and technical support as a  
26 consequence of having LNP capability installed. For Exhibit 2, we set these costs  
27 to zero.

28 Q. **What costs are included in the “Other Monthly Costs” category?**  
29

1 A. These are labor costs associated with performing the work necessary to port indi-  
2 vidual telephone numbers on a routine basis.

3 Q. **What method did TELEC use to estimate the “Other Monthly Costs” cate-**  
4 **gory, for Exhibit 1 and for Exhibit 2?**

5  
6 A. For Exhibit 1, TELEC did not include any costs in this category. For Exhibit 2,  
7 we assumed that each RLEC would port a certain quantity of numbers each  
8 month, based on its count of access lines, as explained earlier for the “SOA  
9 Monthly Charge” category. We determined that, for each number porting service  
10 order, five man-hours at the RLEC’s Customer Service Representative wage rate  
11 is a reasonable estimate of these labor costs.

12 Q. **What costs are included in the “Non-recurring transport charges” and**  
13 **“Transport” categories?**

14  
15 A. These are the non-recurring and monthly recurring costs associated with establish-  
16 ing a T1 circuit to carry trunk groups to a point of interconnection (“POI”) in the  
17 RLEC’s LATA of each wireless carrier providing coverage in the RLEC’s service  
18 area. If a wireless carrier has not established a direct connection within an RLEC  
19 exchange in which it requests LNP, and if the FCC would require at some date in  
20 the future that the RLEC is responsible for the costs of such facilities, these facili-  
21 ties would need to be provisioned by the RLEC to ensure that calls to ported  
22 numbers can be properly delivered to the correct terminating switch.

23 Q. **What method did TELEC use to estimate the “Non-recurring transport**  
24 **charges” and “Transport” categories, for Exhibit 1 and for Exhibit 2?**

25  
26 A. For both Exhibits, TELEC estimated that one T1 circuit would be required be-  
27 tween each Host or Stand-Alone switch operated by an RLEC and the nearest POI  
28 of each wireless carrier with coverage in the RLEC’s service area. We assumed

1 that each wireless carrier's nearest POI is at the same location as the LATA tan-  
2 dem nearest to the RLEC's service area. In those few cases where a wireless car-  
3 rier already has a direct connection to an RLEC's switch, we assumed that the ex-  
4 isting connection could carry the traffic generated by local calls to numbers that  
5 have been ported from that RLEC switch to that wireless carrier, and that no new  
6 T1 circuit need be established. As I explained earlier, after Exhibit 1 was submit-  
7 ted with the RLECs' petitions, we verified circuit mileages, applicable tariffs and  
8 connectivity requirements in our estimates of transport costs for Exhibit 2.

9 Q. Why are these costs included in the cost analysis?

10  
11 A. Costs to transport local calls to ported numbers to a wireless carrier's POI have  
12 been included in our analyses to demonstrate the potential impact that transport  
13 costs would have on the RLECs' end-users if the RLEC must arrange for the  
14 transport to accommodate LNP.

#### 15 DERIVED MONTHLY COSTS

16  
17 Q. How are the "Monthly Cost calculations per line" amounts calculated?

18  
19 A. There are four lines of cost derived under the heading "Monthly Cost Calculations  
20 per line". The first line involves the calculation of the total nonrecurring cost per  
21 line per month excluding the cost of transport. The cost on this line is calculated  
22 by amortizing the amount on the line titled "Total Non-recurring Costs excluding  
23 transport" over a 60-month period at the current rate of return of 11.25% as pre-  
24 scribed pursuant to Part 65 of the FCC rules.

25 The second line involves the calculation of the total nonrecurring cost per line per  
26 month including the cost of transport. The cost on this line is calculated by amor-

1 tizing the amount on the line titled "Total Non-recurring Costs including trans-  
2 port" over a 60-month period at the current rate of return of 11.25% as prescribed  
3 pursuant to Part 65 of the FCC rules.

4 The third line involves the calculation of the total cost per line excluding trans-  
5 port. The cost on this line is calculated by adding the amount as shown on the  
6 "Total Nonrecurring cost per month excluding transport" line with the amount as  
7 shown on the "Total Recurring Monthly Cost excluding Transport" line.

8 The fourth line involves the calculation of the total cost per line including trans-  
9 port. The cost on this line is calculated by adding the amount as shown on the  
10 "Total Nonrecurring cost per month including transport" line with the amount as  
11 shown on the "Total Recurring Monthly Cost including Transport" line.

12 Q. **How is the LNP cost per line per month calculated?**

13 A. The total cost per month excluding transport is divided by the access lines to de-  
14 rive the LNP cost per line per month excluding transport amount. The total cost  
15 per month including transport is divided by the access lines to derive the LNP cost  
16 per line per month including transport amount.

17 Q. **Has the FCC created a mechanism for carriers to recover carrier-specific**  
18 **costs directly related to providing LNP from end-users?**

19  
20 A. Yes, it has.

21 Q. **Does this conclude your testimony?**

22 A. No, it does not. I will also offer company-specific testimony for each of the  
23 RLECs that will address issues specific to them.

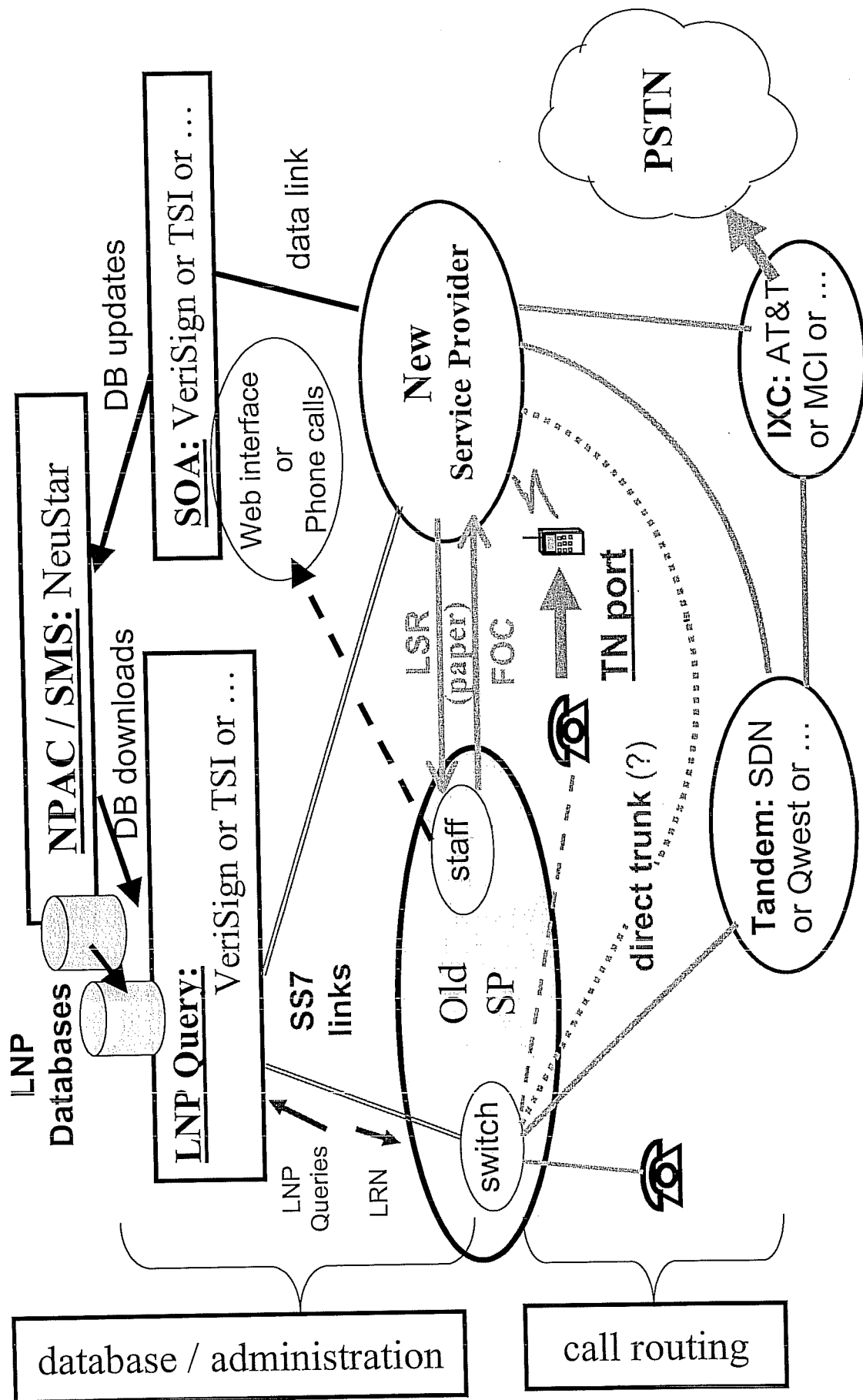
## Exhibit A

### Rural Exchange Carriers included in testimony of Tom Bullock

<u>PUC Docket</u>	<u>Operating company</u>
TC04-044	Sioux Valley Telephone Company
TC04-045	Golden West Telecommunications Cooperative, Inc.
TC04-045	Vivian Telephone Company
TC04-045	Kadoka Telephone Company
TC04-046	Union Telephone Company
TC04-046	Armour Independent Telephone Company
TC04-046	Bridgewater Canistota Telephone Company
TC04-049	McCook Cooperative Telephone Company
TC04-050	Valley Telecommunications Cooperative Association, Inc.
TC04-051	Faith Municipal Telephone Company
TC04-055	Alliance Communications Coop., Inc.
TC04-055	Splitrock Properties, Inc.
TC04-084	Tri County Telecom Inc.



# Overview of LNP Network Architecture & Processes



**Company Information & General LNP Cost Information**

Please see the "Instructions for LNP Cost Data Request" document accompanying this workbook.

Please use a separate copy of this workbook file for each individual Operating Company, if you have more than one.

<u>General Company Information</u>	<u>Primary Data</u>	<u>Supplemental Data</u>
1 Company name:		
2 Company OCN:		
3 Contact name:		
4 Contact email address:		
5 Contact telephone number:		
6 Number of Access Lines: (Dec. 31, 2003)		
7 Number of LifeLine Access Lines: (Dec. 31, 2003)		
8 Number of Lines charged for LNP (Lifeline customers are not charged for LNP.)	0	
9 Number of Employees		
<b><u>Wireless Carriers</u></b>		
10 Wireless carriers requesting LNP		
11 Other wireless carriers operating in your area		
12 Wireless carriers with direct trunking into your network		
<b><u>Customer Notification</u></b>		
13 We estimate your cost to be:		
14 Is the amount shown a reasonable cost estimate? (YES or NO)		

**Staff Information**

Enter job titles, quantities and loaded hourly wage rates for key LNP-related positions in your company.

<u>Job Title</u>	<u>Loaded Hourly Wage Rate</u>	<u>Quantity</u>
<u>Management &amp; Supervisory</u>		
General Manager		
Customer Service Supervisor		
Engineering Supervisor		
Operations Supervisor		
Office Manager		
<u>Technical</u>		
Switch Engineer		
Switch Technician		
Computer Programmer		
<u>Clerical</u>		
Customer Service Rep.		
Office Assistant		

## Switch and Transport Information

List each switch providing local exchange service. For each switch, enter vendor-supplied price quote for upgrading to LNP capability, LNP installation costs, additional ANNUAL switch maintenance costs and the normal V&H airline mileage to the nearest LAT A tandem.

For Host-Remote complexes, list the Host switch first, and list all its Remotes immediately below the Host. There is no need to show the mileage for a Remote.

[illegible]

(Please add more lines if needed to show all your switches.)

## Instructions for LNP Cost Data Request

TELEC Consulting Resources, Inc.

February 10, 2004

This document accompanies an Excel workbook named LNPCostDataRequest.xls. Please rely on these instructions as you fill in the blanks in the Excel workbook. We will schedule a conference call in the near future to discuss any questions or concerns you may have about the workbook. If you have questions following the conference call, you may contact Tom Bullock (tbullock@teleconsulting.com) or Dan Davis (ddavis@teleconsulting.com).

We will use the data you provide, together with some assumptions of our own, to estimate your total cost for implementation of LNP capability and your total ongoing cost of providing LNP. We will also estimate the monthly LNP End User Charge each of your customers (excluding LifeLine customers) would pay over a five-year period, and the additional LNP-related costs - beyond those recoverable through the LNP End User Charge - that you would incur. **If you decide to have TELEC proceed with a Petition to your state commission for relief from LNP requirements, a summary of this cost information will be filed as an Exhibit accompanying the Petition we will prepare on your behalf for filing with the state commission for suspension of your requirement to provide LNP, pursuant to Section 251(f)(2) of the Telecommunications Act.**

**We tentatively plan to file these Petitions with your state commission by Friday, February 27, 2004. Please provide us with your cost data as early as you possibly can, but no later than Friday, February 20.** Fill in the LNPCostDataRequest.xls workbook, according to the instructions on the following pages, and send it as an email attachment to Charley Ogden (cogden@teleconsulting.com).

Costs of implementing Local Number Portability (LNP) are of several different kinds. For example, your switches must be upgraded with LNP capability; you must develop procedures to handle a variety of new order forms and train staff on LNP processes; you must subscribe to the services of a certified LNP Service Order Administrator (SOA) and an LNP Query Service vendor; you must provide information to, and enter into agreements with, the carriers that request number porting from you; you must test the entire number porting process; you will most likely want to file an FCC tariff, either directly or through NECA, for an LNP End User Charge to recover eligible costs from your end user customers (collectable over a five-year period); you may be required to notify customers of LNP availability and of the End User Charge; and you may need to establish trunking between your switches and the other carriers' switches to handle local calls to ported numbers.

LNP implementation costs in a few of these categories can be estimated with no input from you. Others require basic information such as line counts, or the quantities of your Host, Remote and Stand-Alone switches and mileages from each to the nearest LATA tandem. Some will require that you consult with your engineers to determine switch upgrade costs. And some we will estimate, based on data from you concerning staff size and wage rates.

We emphasize that the cost information that will be filed as an Exhibit with the Petition for suspension forms much of the basis for your case before your state commission. Cost estimates should be neither minimized nor exaggerated, but should be reasonable and able to withstand critical scrutiny in a legal proceeding.

### **LNPCostDataRequest.xls** workbook

If you are providing data for more than one Operating Company, **please make a separate copy of the workbook for each Company.**

When you have completed your workbook(s), send it (or them) as an **email attachment** (or attachments) to **Charley Ogden (cogden@telec-consulting.com).**

The LNPCostDataRequest workbook contains three sheets, named General, StaffInfo and Switch&Transport.

### **General sheet - General Company Information**

The **General** sheet asks for general company information and for other information that will allow us to estimate certain LNP implementation costs.

Enter your information in the column labeled "Primary Data." For some items, you may want or need to also enter information in the "Supplemental Data" column.

### General Company Information

- |   |   |  |
|---|---|--|
| 1 | Company name                                    | Enter the name of your Operating Company.  |
| 2 | Company OCN                                     | Enter your company's Operating Company Number.   |
| 3 | Contact name                                    | Enter the name, email address and telephone number of the individual we should contact if we have questions about your company's LNP cost information. You may enter data for a second contact person under Supplemental Data. |
| 4 | Contact email address                           |  |
| 5 | Contact telephone number                        |  |
| 6 | Total Number of Access Lines (Dec. 31, 2003)    |  |
| 7 | Number of Lifeline Access Lines (Dec. 31, 2003) | Number of Lifeline customers as of Dec. 31, 2003. Enter date information as in line 6.   |
| 8 | Number of Lines charged for LNP                 | Do not enter a number here. This is the number of access lines that will be assessed the monthly LNP End User Charge. (Lifeline customers are not charged for LNP.)  |
| 9 | Number of Employees                             | Total number of people employed by your company today. An approximation within 10% is fine.  |

### Wireless Carriers

- |    |   |  |
|----|---|--|
| 10 | Wireless carriers requesting LNP                      | Enter, under Primary Data, the number of wireless carriers from whom you have received requests for LNP. Please name these carriers in the Supplemental Data column.   |
| 11 | <b>Other</b> wireless carriers operating in your area | Enter, under Primary Data, the quantity of <b>other</b> wireless carriers (those <b>not</b> included in line 10) providing service in the area served by your company. Please name them in the Supplemental Data column. |

12	Wireless carriers with direct trunking into your network	Enter, under Primary Data, the number of wireless carriers that have established direct trunking into at least one of your switches. Please name them in the Supplemental Data column.
----	--	--

### **Customer Notification**

13	We estimate your cost to be:	This is our estimate of your cost to notify customers about LNP, based on your line counts. (See line 14.)
14	Is the amount shown a reasonable cost estimate? (YES or NO)	If the amount shown in line 13 is a reasonable estimate of your costs to notify customers about LNP, enter "YES." Otherwise, enter "NO" and we will contact you to discuss this item in more detail. You may add comments under Supplemental Data.

### **StaffInfo sheet - Company Staff Information**

The **StaffInfo** sheet asks for information about your management, supervisory, technical and clerical staff. We will use this information to estimate costs of various activities your company will need to undertake to implement LNP capability.

These activities include:

- Order Processing - which includes:
  - receipt of Local Service Requests and generation of Firm Order Confirmations, to port individual telephone numbers;
  - submitting database updates to your Service Order Administrator (SOA);
  - switch updates to invoke a temporary "unconditional 10-digit trigger" for a ported number;
  - management of a database of numbers that have been ported out of your switches;
  - resolution of Order conflicts;
- Testing of all LNP processes, including Order Processing, call routing to a ported number, and rating of calls to and from a ported number;
- Investigation and resolution of network routing and rating problems;
- Adding the flat monthly LNP End User Charge to your customers' bills.



We ask you to identify the job classifications (and their fully loaded hourly wage rates) that are involved with *planning for* as well as *performing* these activities. Based on the number of your employees and the staff sizes involved with LNP-related activity, we will calculate estimates of your costs of undertaking these activities.

We have grouped the job titles into three groups - (1) Management & Supervisory, (2) Technical and (3) Clerical.

Although the job titles shown may not match your company's job titles, please do your best to map your job titles into those shown on this sheet. For example, if you have a single individual acting as an "Engineering and Operations Supervisor," enter data for either "Engineering Supervisor" or for "Operations Supervisor" and leave the other blank. If our list of job titles is really not adequate for your company, extra lines are available for you to add more job titles if necessary.

For each job title and wage rate, show the number of employees who have that title and rate.

### **Switch&Tranport sheet - Switch and Transport Information**

The **Switch&Transport** sheet asks for information about your switching network and for V&H airline mileages from your Host and Stand-Alone switches to the nearest LATA tandem. These mileages will allow us to determine the cost of trunks you may need to install to handle local calls to numbers that have been ported to wireless carriers. (We are assuming that wireless carriers' Points of Interconnection are at the nearest LATA tandem.)

If you have Host-Remote complexes, for each complex list the Host switch first, then list all its Remotes on the lines immediately below the Host. Since Remote switches do not have trunks, there is no need for you to show mileages for your Remotes. But it is important for us to know how many Remotes "belong to" each Host.

Obtain from your switch vendor a price quote for upgrading each switch for LNP capability and for any installation fees your switch vendor charges for the upgrade. We will estimate additional internal costs, such as engineer and technician wages, associated with these upgrades. Also show the **increase in annual** switch maintenance expense you will incur as a result of the LNP feature in each switch.

Exhibit D

Company Size Coefficients and Estimated Minimum Hours Spent on LNP Procedure Activities

Activity	Company Size Coefficient	Estimated Minimum Hours Per Person in Job Title for Each Activity								
		General Manager	Customer Service Supervisor	Engineering Supervisor	Operations Supervisor	Office Manager	Switch Engineer	Switch Technician	Computer Programmer	Customer Service Rep.
Set up LSR/FOC Processes	0.5	12	12			4				
Set up SOA Processes	0.25	8	4			2				
Set up Switch Trigger Procedures	0.1	2		2	2		2	2		1
Set up database of ported TNs	0.1	1	1	1	1	1	1	1		1
Initial Planning	0.3	32	8	8	8	8				
Train Technicians	0.3	2		4	4		4	2		
Train CSRs	0.3	4	8			8				4
Add EU Charge to Billing System	0.4	4	2			2				
Computer Programming	0.8								30	
Set up Troubleshooting Procedures	0.5	6	4	4	4	3	2	2		1

**Exhibit E**  
**Estimated Hours Spent on Other Internal LNP Activities**

General Manager	Engineer / Consultant	Attorney
-----------------	-----------------------	----------

**Activity**

Establish agreement with SOA	2	10	
Prepare & file FCC Tariff for End User charge	2		20
Research technical & operational requirements of LNP	115	20	8

**For each carrier requesting LNP:**

Negotiate Service Level Agreement	2	25	10
Complete intercarrier porting form(s)	5	5	0

Exhibit F

LNP SOA Costs

Access Lines			Ports per month	SOA Type	Porting Transactions per month	SOA Cost per Month	SOA Non-recurring Cost
0	to	500	1	Option A	3	\$45	\$0
501	to	1000	2	Option A	6	\$90	\$0
1001	to	2000	3	Option A	9	\$135	\$0
2001	to	3000	4	Option A	12	\$180	\$0
3001	to	4000	5	Option A	15	\$225	\$0
4001	to	5000	6	Option A	18	\$270	\$0
5001	to	10000	10	Option B	n/a	\$400	\$1,000
10001	to	20000	15	Option B	n/a	\$400	\$1,000
20001	to	40000	20	Option B	n/a	\$400	\$1,000

## Exhibit 2

**Golden West GWVK Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 145,757
Internal Business Procedure Changes	\$ 40,265
Intercarrier Testing	\$ 4,754
Other Internal Costs	\$ 25,109
LNP Query set up	\$ 2,090
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 15,367
Total Non-recurring Costs excluding transport	\$ 234,342

Non recurring transport charges	\$ 23,809
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Total Non-recurring Costs including transport	\$ 258,150
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 1,650
Switch Maintenance Costs per month	\$ 3,827
Other Monthly Costs	\$ 3,350
Total Recurring Monthly Costs excluding Transport	\$ 9,227

Transport	\$ 54,036
-----------	-----------

Total Recurring Monthly Costs including Transport	\$ 63,263
---	-----------

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 5,124
Total Nonrecurring cost per month including transport amortized over five years	\$ 5,645

Total cost per month excluding transport	\$ 14,352
Total cost per month including transport	\$ 68,908

Access Lines excluding Lifeline	34,566
---------------------------------	--------

LNP cost per line per month excluding transport	\$ 0.42	\$ 0.48
LNP cost per line per month including transport	\$ 1.99	\$ 2.29

**Golden West ABU Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$	76,075
Internal Business Procedure Changes	\$	6,675
Inter-carrier Testing	\$	1,228
Other Internal Costs	\$	35,152
LNP Query set up	\$	950
SOA Non-recurring set up charge	\$	-
Customer Notification Costs	\$	1,196
Total Non-recurring Costs excluding transport	\$	121,277

Non recurring transport charges	\$	18,207
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Total Non-recurring Costs including transport	\$	139,483
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$	225
LNP Query Costs per month	\$	750
Switch Maintenance Costs per month	\$	-
Other Monthly Costs	\$	616
Total Recurring Monthly Costs excluding Transport	\$	1,591

Transport	\$	23,011
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Total Recurring Monthly Costs including Transport	\$	24,603
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$	2,652
Total Nonrecurring cost per month including transport amortized over five years	\$	3,050

Total cost per month excluding transport	\$	4,243
Total cost per month including transport	\$	27,653

Access Lines excluding Lifeline		2,948
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LNP cost per line per month excluding transport	\$	1.44	\$	1.66
LNP cost per line per month including transport	\$	9.38	\$	10.79

## Exhibit 2



**Alliance Merged****Exhibit 2****Total Estimated LNP Non-recurring and Recurring Costs**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 122,848
Internal Business Procedure Changes	\$ 21,344
Inter-carrier Testing	\$ 2,350
Other Internal Costs	\$ 33,532
LNP Query set up	\$ 1,520
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 4,301
<b>Total Non-recurring Costs excluding transport</b>	<b>\$ 186,895</b>

Non recurring transport charges	\$ 11,789
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<b>Total Non-recurring Costs including transport</b>	<b>\$ 198,684</b>
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 1,200
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 2,068
<b>Total Recurring Monthly Costs excluding Transport</b>	<b>\$ 3,668</b>

Transport	\$ 15,502
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<b>Total Recurring Monthly Costs including Transport</b>	<b>\$ 19,170</b>
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 4,087
Total Nonrecurring cost per month including transport amortized over five years	\$ 4,345

Total cost per month excluding transport	\$ 7,755
Total cost per month including transport	\$ 23,515

Access Lines excluding Lifeline	9,820
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LNP cost per line per month excluding transport	\$ 0.79	\$ 0.91
LNP cost per line per month including transport	\$ 2.39	\$ 2.75

**Tri County Telecom Inc.**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$	10,640
Internal Business Procedure Changes	\$	4,656
Intercarrier Testing	\$	3,170
Other Internal Costs	\$	20,790
LNP Query set up	\$	380
SOA Non-recurring set up charge	\$	-
Customer Notification Costs	\$	718
Total Non-recurring Costs excluding transport	\$	40,354
Non recurring transport charges	\$	1,903
Total Non-recurring Costs including transport	\$	42,257

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$	45
LNP Query Costs per month	\$	300
Switch Maintenance Costs per month	\$	-
Other Monthly Costs	\$	422
Total Recurring Monthly Costs excluding Transport	\$	767
Transport	\$	2,526
Total Recurring Monthly Costs including Transport	\$	3,293

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$	882
Total Nonrecurring cost per month including transport amortized over five years	\$	924
Total cost per month excluding transport	\$	1,649
Total cost per month including transport	\$	4,217

Access Lines excluding Lifeline 433

LNP cost per line per month excluding transport	\$	3.81	\$	4.38
LNP cost per line per month including transport	\$	9.74	\$	11.20

**McCook Cooperative Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 26,400	
Internal Business Procedure Changes	\$ 15,625	
Intercarrier Testing	\$ 2,212	
Other Internal Costs	\$ 41,316	
LNP Query set up	\$ 1,140	
SOA Non-recurring set up charge	\$ -	
Customer Notification Costs	\$ 1,410	
Total Non-recurring Costs excluding transport	\$ 88,103	
Non recurring transport charges	\$ 8,310	
Total Non-recurring Costs including transport	\$ 96,413	

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 180	
LNP Query Costs per month	\$ 900	
Switch Maintenance Costs per month	\$ -	
Other Monthly Costs	\$ 422	
Total Recurring Monthly Costs excluding Transport	\$ 1,502	
Transport	\$ 11,405	
Total Recurring Monthly Costs including Transport	\$ 12,907	

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,927	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,108	
Total cost per month excluding transport	\$ 3,429	
Total cost per month including transport	\$ 15,016	
Access Lines excluding Lifeline	2,061	

LNP cost per line per month excluding transport  
LNP cost per line per month including transport

\$ 1.66	\$ 1.91
\$ 7.29	\$ 8.38

With  
Surcharges  
& Taxes

**Sioux Valley Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 63,114
Internal Business Procedure Changes	\$ 17,815
Intercarrier Testing	\$ 3,939
Other Internal Costs	\$ 15,065
LNP Query set up	\$ 380
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 2,358
Total Non-recurring Costs excluding transport	<u>\$ 103,671</u>

Non recurring transport charges	\$ 8,403
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Total Non-recurring Costs including transport	<u>\$ 112,074</u>
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 300
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 1,233
Total Recurring Monthly Costs excluding Transport	<u>\$ 1,933</u>

Transport	\$ 12,704
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Total Recurring Monthly Costs including Transport	<u>\$ 14,637</u>
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,267
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,451

Total cost per month excluding transport	\$ 4,200
--	----------

Total cost per month including transport	\$ 17,088
--	-----------

Access Lines excluding Lifeline	5,944
---------------------------------	-------

LNP cost per line per month excluding transport	\$ 0.71	\$ 0.81
LNP cost per line per month including transport	\$ 2.87	\$ 3.31

**Valley Telecommunications Cooperative Association, Inc.**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 21,216
Internal Business Procedure Changes	\$ 15,455
Intercarrier Testing	\$ 3,216
Other Internal Costs	\$ 22,479
LNP Query set up	\$ 190
SOA Non-recurring set up charge	\$ -
Customer Notification Costs	\$ 1,978
Total Non-recurring Costs excluding transport	<u>\$ 64,535</u>

Non recurring transport charges	\$ 1,401
---------------------------------	----------

Total Non-recurring Costs including transport	<u>\$ 65,935</u>
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 225
LNP Query Costs per month	\$ 150
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 422
Total Recurring Monthly Costs excluding Transport	<u>\$ 797</u>

Transport	\$ 6,425
-----------	----------

Total Recurring Monthly Costs including Transport	<u>\$ 7,222</u>
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,411
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,442

Total cost per month excluding transport	\$ 2,208
Total cost per month including transport	\$ 8,664

Access Lines excluding Lifeline	3,461
---------------------------------	-------

LNP cost per line per month excluding transport	\$ 0.64	\$ 0.71
LNP cost per line per month including transport	\$ 2.50	\$ 2.80

**Faith Municipal Telephone Company**

**Exhibit 2**

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$	14,668
Internal Business Procedure Changes	\$	4,324
Intercarrier Testing	\$	2,760
Other Internal Costs	\$	19,925
LNP Query set up	\$	190
SOA Non-recurring set up charge	\$	-
Customer Notification Costs	\$	698
Total Non-recurring Costs excluding transport	\$	42,564

Non recurring transport charges \$ 1,401

Total Non-recurring Costs including transport \$ 43,965

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$	45
LNP Query Costs per month	\$	150
Switch Maintenance Costs per month	\$	-
Other Monthly Costs	\$	90
Total Recurring Monthly Costs excluding Transport	\$	285

Transport \$ 4,052

Total Recurring Monthly Costs including Transport \$ 4,337

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$	931
Total Nonrecurring cost per month including transport amortized over five years	\$	961

Total cost per month excluding transport \$ 1,216

Total cost per month including transport \$ 5,299

Access Lines excluding Lifeline 392

LNP cost per line per month excluding transport

LNP cost per line per month including transport

\$	3.10	\$	3.57
\$	13.52	\$	15.54

With  
Surcharges  
& Taxes

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

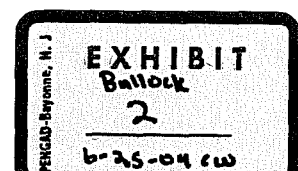
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IN THE MATTER OF THE PETITIONS  
OF SIOUX VALLEY TELEPHONE  
COMPANY; GOLDEN WEST TELE-  
COMMUNICATIONS COOPERATIVE,  
INC., VIVIAN TELEPHONE COMPANY  
AND KADOKA TELEPHONE COM-  
PANY; ARMOUR INDEPENDENT  
TELEPHONE COMPANY, BRIDGE-  
WATER CANISTOTA TELEPHONE  
COMPANY AND UNION TELEPHONE  
COMPANY; MCCOOK COOPERATIVE  
TELEPHONE COMPANY; VALLEY  
TELECOMMUNICATIONS COOPERA-  
TIVE ASSOCIATION, INC.; FAITH  
MUNICIPAL TELEPHONE COMPANY;  
ALLIANCE COMMUNICATIONS  
COOP., INC. AND SPLITROCK PROP-  
ERTIES, INC.; AND TRI COUNTY  
TELECOM INC. FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-044  
Docket No. TC04-045  
Docket No. TC04-046  
Docket No. TC04-049  
Docket No. TC04-050  
Docket No. TC04-051  
Docket No. TC04-055  
Docket No. TC04-084

REBUTTAL TESTIMONY  
OF TOM BULLOCK  
ON BEHALF OF THE ABOVE-NAMED COMPANIES

June 15, 2004



1 Q. **Please State your Name, Employer, Business Address and Telephone Num-**  
2 **ber.**

3  
4 A. My name is Tom Bullock. I am employed with TELEC Consulting Resources,  
5 Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln, Nebraska  
6 68508. My telephone number is (402) 441-4315.

7 Q. **Did you file direct testimony in the petitions listed above in this proceeding?**

8  
9 A. Yes. I filed introductory testimony on behalf of all the companies listed above,  
10 and filed direct testimony on behalf of each, on May 14, 2004.

11 Q. **Have you read the direct testimony of Mr. Ron Williams on behalf of West-**  
12 **ern Wireless Corporation?**

13  
14 A. Yes, I have.

15  
16 Q. **What is the purpose of your rebuttal testimony?**

17  
18 A. The primary purpose of my rebuttal testimony is to respond to the testimony of  
19 Mr. Williams with respect to cost issues he discussed in his testimony.

20 Q. **Mr. Williams claims, on pages 16 and 17 of his testimony, that the Petitioners**  
21 **grossly overstate the implementation and operational costs of LNP. Has Mr.**  
22 **Williams provided evidence to support his claim?**

23  
24 No, he has not. Mr. Williams's claim is not backed by any supporting evidence or  
25 documentation. Review of Exhibit 5A attached to Mr. Williams' testimony re-  
26 veals that, for his cost estimates, he adjusted the RLECs' non-recurring costs in  
27 the "Other Internal Costs," "SOA Non-recurring set up charge" and "Non-  
28 recurring transport charges" categories, and that he eliminated the RLECs'  
29 monthly recurring costs in all categories. Mr. Williams's proposed changes to  
30 non-recurring and recurring costs appear to have been made without any basis in  
31 fact.



1 A comparison between the cost estimates provided as Exhibit 2 attached to my  
2 May 14, 2004, direct testimony and the estimates Mr. Williams has provided with  
3 his testimony on May 28, 2004, as Exhibit Williams Direct 5, is attached to this  
4 testimony, as Exhibit R-1-TB.

5 Q. Mr. Williams claims on page 17, lines 8-12 of his testimony, that the costs in-  
6 cluded in the category "Other Internal Costs" are overstated. Do you agree  
7 with Mr. Williams?  
8

9 A. No, I do not. Mr. Williams claims that the costs in this category are overstated  
10 because "the Petitioners have included costs to deal with 'porting contracts' and  
11 costs related to the development of 'Intercarrier Porting Forms'." The RLECs  
12 have included costs for porting contracts because wireless carriers, including  
13 Western Wireless, have sent Local Number Portability Operations Agreements to  
14 the RLECs to govern the porting of telephone numbers between the wireline and  
15 wireless networks. It is, therefore, reasonable to anticipate that such costs will be  
16 incurred if the RLECs were to proceed to implement LNP. Copies of porting  
17 agreements sent to RLECs are attached to this rebuttal testimony, as Exhibit R-2-  
18 TB.

19 Mr. Williams also claims that the costs related to the development of "Intercarrier  
20 Porting Forms" are also grossly overstated, since porting forms are available to  
21 any carrier for a nominal fee. However, the costs included in this subcategory are  
22 not the costs associated with merely obtaining a porting form and its supporting  
23 documentation. The costs included in this subcategory are associated with inter-  
24 acting with the wireless provider to reach and confirm a common understanding  
25 and interpretation of the form's contents and the processes related to it, and with

1 obtaining the data required to complete the form itself. Based upon the informa-  
2 tion necessary to complete the Trading Partner Profile and porting questionnaires,  
3 an average of ten man-hours per Trading Partner Profile is a reasonable estimation  
4 of time required for this process. Examples of Trading Partner Profile forms and  
5 porting questionnaires are attached to this rebuttal testimony, as Exhibit R-3-TB.

6 Q. **Mr. Williams states that some Petitioners have included non-recurring costs**  
7 **for an automated SOA interface (p. 17: 11-13). What amount of costs did the**  
8 **RLECs use on Exhibit 2 on the line entitled "SOA Non-recurring set up**  
9 **charge" that was attached to Direct Testimony?**

10  
11 A. It appears that Mr. Williams' review of the RLECs' cost analysis was based on  
12 Exhibit 1, which was attached to the RLECs' original Petitions. On Exhibit 2 that  
13 was attached to my direct testimony, most of the RLECs did not include any non-  
14 recurring costs on the line entitled "SOA Non-recurring set-up charge." The only  
15 exceptions are Sioux Valley and the merged operation of Golden West, Vivian  
16 and Kadoka. The estimated porting volumes for these companies led to a choice  
17 of "SOA Option B" for them as being more cost effective, as described on page  
18 19 of my introductory direct testimony and Exhibit F attached thereto.

19 Q. **Mr. Williams has eliminated all costs from the line entitled "Other Monthly**  
20 **Costs." Will you please identify what costs are represented on the line item**  
21 **on Exhibit 2 entitled "Other Monthly Costs"?**

22  
23 A. Yes. These are the internal labor costs associated with the RLEC's personnel  
24 processing a porting order through multiple internal and external processes and  
25 systems. The activity associated with these processes would include receiving the  
26 LSR forms and reviewing the LSR for accuracy against the RLEC's internal re-  
27 cords and verifying that the LSRs are filled out in compliance with the Ordering  
28 and Billing Forum standards. If the LSRs are determined to be accurate and there

1 are no conflicts that the RLEC needs to contact the wireless provider to resolve,  
2 the RLEC personnel can then send the new service provider a Firm Order Con-  
3 firmation. Once the FOC has been sent to the new service provider, the RLEC  
4 will contact the SOA service bureau. Internal work orders will be initiated, proc-  
5 essed and finalized in order to activate the unconditional ten-digit trigger on the  
6 correct date, to test and verify that calls are being properly routed to the ported  
7 number, to disconnect the end-user and ported number from the switch, to verify  
8 that the number cannot be reassigned on the switch and in the customer service  
9 records, and to update billing records.

10 Based upon the multiple manual processes involved, the RLECs estimated that for  
11 each ported number these labor costs would equal five man-hours at the average  
12 loaded wage rate of the company's Customer Service Representative(s).

13 There is one of the Exhibit 2 cost estimates – for Tri-County Telecom – that con-  
14 tains an error in the “Other Monthly Costs” category. This cost was based on 5  
15 ports per month, when it should have been based on 1 port per month, to be con-  
16 sistent with Exhibit F attached to my introductory direct testimony. Exhibit R-1-  
17 TB to this testimony contains a new cost estimate for Tri-County that corrects this  
18 error.

19 **Q. Will you please explain the RLECs' rationale for using DS1 direct connec-**  
20 **tions in the cost estimates for transport?**

21 **A.** Yes, I will. Currently, RLECs do not route local traffic outside of their exchange  
22 boundaries. With intermodal LNP, a call to a number that has been ported to a  
23 wireless carrier will terminate, in most cases, at a point of interconnection or  
24 switch located outside of an RLEC exchange. Today, the RLECs route non-local  
25

1 calls to points outside their exchange boundaries either via EAS trunks or Feature  
2 Group D toll trunks. None of the RLECs have EAS agreements with any wireless  
3 carriers. If an RLEC were to route a call to such a ported number over a Feature  
4 Group D trunk, the customer might receive a recording instructing the customer to  
5 redial the number using one plus the area code. To route the call as a local call  
6 would require the use of direct connections to each wireless provider.

7 Moreover, the agreements now in place between several of the RLECs and West-  
8 ern Wireless that govern reciprocal interconnection, transport and termination  
9 specify that the routing of local traffic from the RLECs to Western Wireless will  
10 be through direct trunk connections.

11 Q. **Mr. Williams states on page 7, lines 24-26 of his testimony, "From the exhib-**  
12 **its provided with the Petitions, it is apparent that most ILEC networks re-**  
13 **quire only switch software upgrades and table translations to make them**  
14 **LNP capable." Is it true that the RLECs require only software upgrades and**  
15 **table translations to make them LNP capable?**  
16

17 A. Some of the RLECs' switches will require hardware upgrades, as well as software  
18 upgrades and table translations, to make them LNP capable. In particular, Faith  
19 Municipal Telephone Company and the "ABU Group" of Golden West companies  
20 - i.e. Amour, Bridgewater Canistota and Union - would all require that new main  
21 controller hardware modules be installed prior to loading LNP software into their  
22 Mitel switches. Mitel's standard product quotation form states product lead times  
23 are 90 business days from receipt of order. Ninety business days are approxi-  
24 mately eighteen weeks, or approximately 4 months. But this delay is not the only  
25 factor involved in determining the amount of time that an RLEC would require to

1 implement LNP. I have attached to this testimony, as Exhibit R-4-TB, LNP im-  
2 plementation timelines for each of the RLECs.

3 **Q. Do you have any other comments on Mr. Williams' cost exhibit attached to**  
4 **his testimony?**

5  
6 A. Yes. Although Mr. Williams provided no information concerning the develop-  
7 ment of his cost exhibit in his testimony, in response to Interrogatories 13.a. and  
8 14, Mr. Williams stated that the SOA recurring cost using a manual SOA inter-  
9 face is \$15 per port, and he provided an Exhibit B indicating at least some porting  
10 activity for all RLECs except Faith Municipal Telephone Company. Further, Mr.  
11 Williams provided a formula to calculate transport charges assuming Petitioners  
12 are required to route traffic to ported calls to the Qwest tandem. (Western Wire-  
13 less' answers to interrogatories are attached to the rebuttal testimony of Steven E.  
14 Watkins.) There appears to be a contradiction between Mr. Williams' testimony  
15 wherein he presents non-zero costs for both SOA services and transport, and the  
16 Exhibit 5 attached to that testimony, in which he does not include any costs in  
17 these categories for the RLECs. In either case, even under Mr. Williams' own  
18 methodology, Western Wireless' calculation of the per-line cost of LNP for the  
19 RLECs is too low.

20 **Q. Do you agree with Mr. Williams that \$15 per port properly reflects the re-**  
21 **curring SOA monthly charge?**

22  
23 A. No. As stated on page 19 of my introductory direct testimony, TELEC assumed  
24 that those RLECs using SOA Option A, which has a charge of \$15 per porting  
25 transaction, would require three such transactions to complete each number port,  
26 meaning that each number port would cost the RLEC \$45 in SOA charges.

1   **Q.    Do you agree with Mr. Williams that it is correct to assume the RLECs**  
2   **would route local traffic to ported numbers to the Qwest tandem?**

3  
4   A.    No. As I stated earlier, the interconnection agreements now in effect between the  
5       RLECs and Western Wireless contain no provisions for the delivery of local traf-  
6       fic from the RLECs to Western Wireless through any means other than a direct  
7       connection. TELEC has included the non-recurring and monthly recurring costs  
8       of circuits required to support such direct trunk connections as separate “trans-  
9       port” cost categories in its cost estimates for the RLECs.

10   **Q.    Do you have any other comments?**

11   A.    Yes. I note that in its answer to Interrogatory 13.f., Western Wireless projects  
12       that it will have zero ports from Faith Municipal Telephone Company for the first  
13       five years after Faith implements LNP. (See Western Wireless Response to Inter-  
14       rogatory 13.f. attached to Rebuttal Testimony of Steven E. Watkins.) Therefore,  
15       it is hard to understand how Western Wireless can conclude that LNP, which it  
16       calculates will impose a monthly cost on Faith’s subscribers in the amount of  
17       \$3.95 per line, is in the public interest.

18   **Q.    Does this conclude your testimony?**

19  
20   A.    Yes, it does.  
21

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

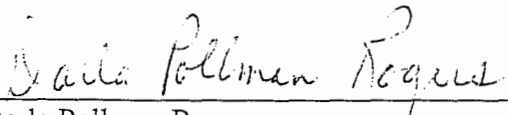
  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

Exhibit R-1-TB



CONFIDENTIAL

# 7

TC 04 - 025

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Exhibit R-2-TB

**AGREEMENT**  
**WIRELESS-WIRELINE NUMBER PORTABILITY**

by and between

Verizon Wireless

and

**Beresford Municipal Telephone Company**

THIS WIRELESS-WIRELINE NUMBER PORTABILITY SERVICE AGREEMENT ("Agreement") by and between Cellco Partnership d/b/a Verizon Wireless (a Delaware general partnership) and the Verizon Wireless Entities (collectively "Verizon Wireless"), each having an office and principal place of business at 180 Washington Valley Road, Bedminster, New Jersey 07921, and **Beresford Municipal Telephone Company**, on behalf of itself and its Affiliates (collectively "Carrier"), with offices located at 101 North 3 Rd Street, Beresford, SD 57004-1796. Verizon Wireless and Carrier may be collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, the above named Parties wish to enter into an Agreement with each other and to be in compliance with the applicable rules and regulations of the Federal Communications Commission ("FCC Rules and Regulations").

WHEREAS, the Parties wish to enter into an Agreement to facilitate the ability of Customers to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement through Local Number Portability.

WHEREAS, the Parties wish to enter into an Agreement to establish practices and procedures to ensure that Customer requests to port numbers are achieved efficiently, with minimal delays, except as required to validate a port request.

THEREFORE, the Parties wish to enter into this Agreement on the following terms and conditions:

**1. TERM**

This Agreement shall become effective in accordance with Section 34 ("Effective Date") and, except as otherwise provided in this Agreement, shall continue in full force and effect until either Party terminates the Agreement by providing notice of termination in writing to the other Party at least thirty (30) days in advance of such termination pursuant to the Notice provisions set forth in Section 18 of this Agreement. Upon termination, the Parties shall continue to provide Local Number Portability as may be required by Applicable Law.

**2. CIRCUMSTANCES OF DEFAULT**

A Party shall be in default under this Agreement if such Party:

- 2.1 Becomes insolvent, liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for the relief of debtors, or initiates any proceeding seeking protection from its creditors; and/or

- 2.2 Violates any applicable laws, statutes, or other legal requirements with respect to this Agreement; and/or
- 2.3 Fails to perform any material term, condition, or covenant of this Agreement and such Party fails to cure such nonperformance within thirty (30) calendar days of receipt of written notice of such default from the non-defaulting Party ("Cure Period"). Upon expiration of said Cure Period, the non-defaulting Party shall have the right to seek applicable remedies under this Agreement. When a default cannot be reasonably cured within the Cure Period, the time for cure may be extended by agreement of the Parties for such period of time as may be reasonably necessary to complete such cure, provided the defaulting Party shall have proceeded promptly to cure such default and shall continue to prosecute such curing with due diligence.
- 2.4 Notices hereunder shall be given to the Notice address set forth in Section 18.

### 3. REMEDIES AND TERMINATION

- 3.1 In the event of default under this Agreement (and with respect to a default under Section 2.3, the Cure Period stated therein), the non-defaulting Party shall have the right, at its option, to suspend performance under this Agreement or to terminate this Agreement without further liability upon providing written notice of such termination to the defaulting party pursuant to the Notice provisions set forth in Section 18.
- 3.2 This Agreement may be affected by changes, modifications, orders, and rulings of regulatory bodies, including the FCC, to the extent competent jurisdiction otherwise exists. Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects the notifying Party's ability to perform its obligations under this Agreement. In the event a material modification is made to the obligations of a Party set forth in this Agreement, which materially affects the obligations of a Party hereunder, then either Party may terminate this Agreement pursuant to Section 1 of this Agreement. If neither Party exercises such a right of termination, and any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in applicable law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.
- 3.3 The rights set forth in Sections 2 and 3 of this Agreement are in addition to, and not in limitation of, any other right or remedy that a non-defaulting party may have at law or in equity.
- 3.4 Notices hereunder shall conform to the Notice provisions set forth in Section 18.

### 4. DEFINITIONS

Unless the context clearly indicates otherwise, when a term listed in these Definitions is used in the Agreement, the term shall have the meaning stated in these Definitions. A defined term intended to convey the meaning stated in these Definitions is capitalized

when used. Other terms that are capitalized, and not defined in these Definitions or elsewhere in the Agreement, shall have the meaning stated in the Act.

- 4.1 Act: The Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended.
- 4.2 Affiliate: Shall have the meaning set forth in the Act.
- 4.3 Agreement: This Agreement including all appendices attached hereto, orders by a Party that have been accepted by the other Party, future amendments, modifications and supplements made in accordance herewith.
- 4.4 Applicable Law: All effective laws, government regulations and government orders, applicable to each Party's performance of its obligations under this Agreement.
- 4.5 Assigned Telephone Number: A telephone number that is assigned to a Customer that can originate and terminate telephone calls through the Public Switched Telephone Network. An Assigned Telephone Number may be a suspended telephone number unless that telephone number was suspended for fraud but, for avoidance of doubt, will not include a telephone number that has been disconnected.
- 4.6 Commercial Mobile Radio Service ("CMRS"): Shall be as defined by the FCC.
- 4.7 Customer Proprietary Network Information ("CPNI"): Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. Section 222.
- 4.8 Customer: An end user and subscriber to the services provided by either of the Parties.
- 4.9 Customer Information: CPNI of a Customer and any other non-public, individually identifiable information about a Customer or, if applicable, the purchase by a Customer of the services or products of a Party.
- 4.10 Customer Service Records ("CSR"): The records that contain the identity, service address, rate plan or plans, and other information on the Customer.
- 4.11 Electronic Data Interface ("EDI"): A data interface for exchange of information between providers.
- 4.12 End Office: A switching entity used in performing, originating and terminating functions for calls to or from Customers. As used in this Agreement, the term End Office shall be used in reference to End Office Switches used by Carrier and other wireline carriers.
- 4.13 Inter-carrier Communications Process ("ICP"): The communication process between the OSP and the NSP, which validates the Customer information and initiates and completes the port request. The ICP includes the exchange of the LSR/LR.
- 4.14 Local Number Portability ("LNP"): Shall have the meaning set forth in the Act.
- 4.15 Local Service Request ("LSR"): Forms containing information about a Customer who desires to port a telephone number to the NSP. A sample LSR and

descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG").

- 4.16 Location Routing Number ("LRN"): Ten-digit number assigned to a switch or point of interconnection used for routing calls.
- 4.17 Metropolitan Statistical Areas ("MSA"): An MSA denotes a large urban population market as designated by the U.S. government.
- 4.18 Mobile Switching Center ("MSC"): A CMRS carrier's switching entity used to perform originating, transit and terminating functions for calls to and from end users, also referred to as Mobile Telecommunications Switching Office or "MTSO."
- 4.19 New Service Provider ("NSP"): The new provider that will provide service to the Customer and to whom the Customer ports its Assigned Telephone Number.
- 4.20 Number Portability Administration Center ("NPAC"): A neutral third party center that processes porting information from and disseminates that information to telecommunication carriers. The NPAC processes the NSP subscriber port request and downloads the LRN associated with the subscriber ported telephone number to local number portability databases.
- 4.21 Old Service Provider ("OSP"): The provider providing service to the Customer at the time the Customer requests porting of the Assigned Telephone Number.
- 4.22 Verizon Wireless Entities: Any FCC-licensed entity doing business as Verizon Wireless and/or directly or indirectly controlled by Cellco Partnership.

## 5. INFORMATION

The Parties acknowledge that Customer Information may be exchanged between the Parties and may be subject to legal restrictions on its use or disclosure, including without limitation laws relating to CPNI. The Parties may only obtain and use such restricted Customer Information in accordance with applicable laws and the restrictions contained in this Agreement. Prior to initiating a port request with the OSP, the NSP shall obtain consent from the Customer that permits the OSP to release to and/or to confirm with the NSP the information about the Customer that was sought by the NSP in the port request process. The NSP shall indemnify, defend, and hold harmless the OSP from and against any liabilities, claims, or demands, including costs, and expenses (including reasonable attorneys' fees) arising from or relating to any failure on the part of the NSP to obtain from the Customer consent for the OSP to release/confirm information about the Customer that was or is sought by the NSP in the port request process.

## 6. NUMBER PORTABILITY

### 6.1 Scope

The Parties shall provide LNP on a reciprocal basis pursuant to this Agreement in accordance with FCC Rules and Regulations as may be prescribed from time to time. "Delay" or "denial" of ports between Parties shall only occur in the event a Party is unable to complete the validation of those validation elements expressly set forth in Appendix A.

### 6.2 Procedures for Providing LNP

The Parties will follow the porting intervals applicable to wireline-wireline porting more specifically described in the North American Numbering Council's Local Number Portability Administration Selection Working Group, dated April 25, 1997, Appendix E, Section 7.1, Figure 1 until such time as the FCC adopts an LNP provisioning process flow and porting intervals for Inter-Service Provider LNP applicable between wireline and wireless carriers, at which time the Parties will follow LNP provisioning process flow and porting intervals established by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF for porting of Assigned Telephone Numbers.

- 6.2.1 For purposes of this Section 6, "Party A" refers to a Party whose Customer elects to become a Customer of the other Party ("Party B") and to utilize the original telephone number(s) corresponding to the service(s) it previously received from Party A, in conjunction with the service(s) it will now receive from Party B. Upon Party B receiving authorization from the Customer in accordance with Applicable Law and sending an LNP order to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.
- 6.2.2 When a telephone number is ported out of the Carrier network, Carrier will remove all line-based features and calling card(s) associated with the ported number(s) from its Line Information Database ("LIDB"). Reactivation of the line-based calling card in another LIDB, if applicable, is the responsibility of Verizon Wireless or the Customer.
- 6.2.3 When a Customer's number is ported between the Parties, Carrier will follow the 911 Guidelines recommended by the National Emergency Number Association ("NENA") with regard to emergency services databases.
- 6.2.4 When Party A ports telephone numbers of its Customer to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.
- 6.2.5 NXX codes shall be portable in accordance with FCC Rules and Regulations except those permitted to be designated non-portable by the same FCC Rules and Regulations. The Parties, moreover, shall ensure that all switches, whether currently owned or hereafter acquired, are upgraded to facilitate LNP to the extent required by FCC Rules and Regulations.
- 6.2.6 Numbers can be ported to and from carriers whose licensed areas overlap and where the receiving carrier has the ability to provide service, as applicable. Porting numbers under these circumstances does not require modification and/or changes to current transport agreements.

### 6.3 LNP Ordering Procedures

6.3.1 Numbers to be ported from Carrier to Verizon Wireless

6.3.1.1 Orders for LNP shall be submitted by VZW to Carrier using an LSR either via web GUI, FAX or EDI. Verizon Wireless shall submit LSRs to port numbers only on behalf of itself and entities for which it has authority to act.

6.3.1.2 Instructions for submitting an LSR to Carrier are available via [TBD – identify where instructions are found].

6.3.2 Numbers to be ported from Verizon Wireless to Carrier

6.3.2.1 Orders for LNP shall be submitted by Carrier to Verizon Wireless utilizing validation information as required by Verizon Wireless and as applied to all other wireline carriers.

6.3.2.2 Instructions for submitting a validation request to Verizon Wireless will be provided via the Verizon Wireless process agreed to by the Parties.

6.4 Procedures for Providing LNP Through Full NXX Code Migration

When a Party has activated an entire NXX code for a single Customer and such Customer chooses to receive service from the other Party, the Parties shall follow the procedures set forth in the Industry Number Committee ("INC") Guideline 95-0407-0008 Central Office Code (NXX) Assignment Guidelines Section 7.

6.5 Procedures for Providing LNP Using Type 1 Numbers

Upon request of Verizon Wireless, the Parties will work together to migrate telephone numbers assigned to Type 1 trunks to the Verizon Wireless switch.

6.6 Procedures for Requesting LNP Capability

Either Party may submit a written request that the other Party upgrade any of its End Offices/MSCs to become LNP capable.

6.6.1 If either Party desires to have LNP capability deployed in an End Office/MSOC of the other Party that is not currently capable, the requesting Party shall issue an LNP request to the other Party. The Party receiving such request will respond to the requesting Party within ten (10) calendar days of receipt of the request with a date for which LNP will be available in the requested End Office/MSOC. The Party receiving the request shall proceed to provide for LNP in compliance with the procedures and timelines set forth in FCC Rules and Regulations.

6.6.2 The Parties will each be responsible for updating the LERG to reflect the LNP capabilities of their respective End Offices/MSOCs.

6.7 The Parties acknowledge and agree that telecommunications system interruptions or service outages may occur which may delay the processing of port requests. The Parties shall use best reasonable efforts to avoid such interruptions or outages and with respect to scheduled outages or maintenance



activities shall work with each other to schedule them so as to minimize disruptions to subscribers. Scheduled interruptions/maintenance should adhere to standard industry agreed upon maintenance windows for the NPAC.

## **7. TROUBLE, MAINTENANCE AND REPAIR**

- 7.1 Both Parties agree to work expeditiously to resolve any issues associated with porting a Customer between the two Parties. Before either Party reports a trouble condition, that Party must first use commercially reasonable efforts to isolate the trouble to the other Party's actions or facilities. In order to facilitate trouble reporting and resolution, the Parties shall provide the trouble reporting contact information, per Section 22 of this Agreement. It is the responsibility of each Party to maintain the accuracy of its contact information and to notify the other Party of changes and modifications.
- 7.2 As part of the commitments set forth in Section 7.1 of this Agreement, each Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.

## **8. DIRECTORY LISTINGS**

This Agreement does not govern or authorize the inclusion of listings in directories that may be published by a Party. Verizon Wireless shall not indicate on an LSR to be submitted to Carrier that it seeks for a ported number to be listed in a Carrier directory. Any listings shall be subject to separate agreement.

## **9. FRAUD**

The Parties agree to cooperate in good faith with each other to investigate, minimize, and take corrective action in cases of fraud related to number portability. Each Party assumes responsibility for all fraud related to number portability associated with its Customers and accounts. Neither Party shall bear responsibility for, and shall have no obligation to investigate or make adjustments to, the accounts of the other Party in cases of fraud by the other Party's Customers or other third parties.

## **10. COSTS**

The Parties to this Agreement will be responsible for their own costs incurred in implementing this Agreement.

## **11. USE OF TRADEMARKS**

The Parties agree that they will not use the name, service marks or trademarks of the other Party or any of its affiliated companies in any manner whatsoever without such Party's specific written consent, which consent the other Party may grant or withhold in its sole discretion. Neither Party is licensed hereunder to conduct business under any logo, trademark, service or trade name (or any derivative thereof) of the other Party. Neither Party shall issue any press release or other publicity concerning this Agreement without the prior written consent of the other Party, which consent the other Party may grant or withhold in its sole discretion. Neither Party may imply any direct or indirect affiliation with or sponsorship or endorsement of it or its services or products by the other Party. Any violation of this Section 11 shall be considered a material breach of this Agreement.

**12. COMPLIANCE WITH LAWS**

The Parties shall comply with all federal, state and local laws applicable to their performance hereunder. Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.

**13. FORCE MAJEURE**

Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure results from causes beyond its reasonable control ("Conditions"), whether or not foreseeable by such Party. Such Conditions include, but are not limited to, acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts. If any such Condition occurs, the Party delayed or unable to perform ("Delayed Party"), upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis during the continuance of such Condition (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period); provided, however, that the Party so affected shall use commercially reasonable efforts to avoid or remove such Condition and both Parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease. Nothing in this Agreement shall require the non-performing Party to settle any labor dispute except as the non-performing Party, in its sole discretion, determines appropriate.

**14. ASSIGNMENT**

This Agreement or any right or interest under this Agreement may not be assigned or transferred nor may any obligation under this Agreement be delegated without the prior written consent of the other Party, which consent may not be unreasonably withheld. Any attempted assignment or delegation in violation of this Section 14 shall be void and ineffective and constitute default of this Agreement.

**15. BINDING EFFECT**

This Agreement shall inure to the benefit of, and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

**16. INDEMNIFICATION**

- 16.1 Each Party ("Indemnifying Party") shall indemnify, defend, and hold harmless the other Party ("Indemnified Party"), the Indemnified Party's Affiliates, (for purposes of this Section 16, Affiliates shall include Verizon Wireless Entities) and the directors, officers and employees of the Indemnified Party and the Indemnified Party's Affiliates, from and against any and all liabilities, claims, demands, suits, actions, settlements, judgments, fines, penalties, injuries, damages, or losses including costs (including court costs) and expenses (including reasonable attorneys' fees) ("Claims") that arise out of bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person to the extent such injury, death, damage, destruction or loss, was proximately caused by the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party, the Indemnifying Party's Affiliates, or the directors, officers, employees, agents, or contractors (excluding the Indemnified Party) of the Indemnifying Party or the Indemnifying Party's Affiliates, in relation

to a port request under this Agreement, including a Claim where there is (a) a claim, demand, suit or action by a person who is not a Party, (b) a settlement with, judgment by, or liability to, a person who is not a Party, or (c) a fine or penalty imposed by a person who is not a Party (collectively referred to as a "Third Party Claim").

16.2 A Party seeking to be indemnified hereunder shall follow, and the Indemnifying Party's obligations under Section 16.1 shall be conditioned on following, the Indemnification Process set forth in this Section 16.2.

16.2.1 The Indemnified Party: (a) shall provide the Indemnifying Party with prompt, written notice of any Claim after becoming aware thereof (including a statement of facts known to the Indemnified Party related to the Claim and an estimate of the amount thereof); (b) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Claim; (c) shall not consent to any settlement or compromise of a Third Party Claim without the written consent of the Indemnifying Party; (d) shall permit the Indemnifying Party to assume the defense of a Third Party Claim (including, except as provided below, the compromise or settlement thereof) at the Indemnifying Party's own cost and expense, provided, however, that the Indemnified Party shall have the right to approve the Indemnifying Party's choice of legal counsel.

16.2.2 If the Indemnified Party fails to comply with Section 16.2.1 with respect to a Claim, to the extent such failure shall have a material adverse effect upon the Indemnifying Party, the Indemnifying Party shall be relieved of its obligation to indemnify, defend and hold harmless the Indemnified Party with respect to such Claim under this Agreement.

16.2.3 Subject to 16.2.4 and 16.2.5, below, the Indemnifying Party shall have the authority to defend and settle any Third Party Claim.

16.2.4 With respect to any Third Party Claim, the Indemnified Party shall be entitled to participate with the Indemnifying Party in the defense of the Claim if the Claim requests equitable relief or other relief that could affect the rights of the Indemnified Party. In so participating, the Indemnified Party shall be entitled to employ separate counsel for the defense at the Indemnified Party's expense. The Indemnified Party shall also be entitled to participate, at its own expense, in the defense of any Claim, as to any portion of the Claim as to which it is not entitled to be indemnified, defended and held harmless by the Indemnifying Party.

16.2.5 In no event shall the Indemnifying Party settle a Third Party Claim or consent to any judgment with regard to a Third Party Claim without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. In the event the settlement or judgment requires a contribution from or affects the rights of an Indemnified Party, the Indemnified Party shall have the right to refuse such settlement or judgment with respect to itself and, at its own cost and expense, take over the defense against the Third Party Claim, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify or hold harmless the Indemnified Party against, the Third Party Claim for any amount in excess of such refused settlement or judgment.

16.2.6 The Indemnified Party shall, in all cases, assert any and all provisions in applicable Tariffs and Customer contracts that limit liability to third persons as a bar to, or limitation on, any recovery by a third-person claimant.

16.2.7 The Indemnifying Party and the Indemnified Party shall offer each other all reasonable cooperation and assistance in the defense of any Third Party Claim.

16.3 Each Party agrees that it will not impede or bring any action against the other Party, the other Party's Affiliates, or any of the directors, officers or employees of the other Party or the other Party's Affiliates, based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by the other Party or the other Party's Affiliate and that arises out of performance of this Agreement.

16.4 Each Party's obligations under this Section 16 shall survive expiration, cancellation or termination of this Agreement.

## 17. RELATIONSHIP OF THE PARTIES

17.1 Neither Party undertakes by this Agreement or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. The relationship of the Parties under this Agreement shall be that of independent contractors and is a non-exclusive relationship. Nothing contained in this Agreement is intended to give rise to an employment relationship, partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of employers, partners or joint venturers.

17.2 Except for provisions herein expressly authorizing a Party to act for another Party, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party in writing, which permission may be granted or withheld by the other Party in its sole discretion.

17.3 Each Party shall have sole authority and responsibility to hire, fire, compensate, supervise, and otherwise control its employees, agents and contractors. Each Party shall be solely responsible for payment of any Social Security or other taxes that it is required by Applicable Law to pay in conjunction with its employees, agents and contractors, and for withholding and remitting to the applicable taxing authorities any taxes that it is required by Applicable Law to collect from its employees.

17.4 A Party may use a contractor of the Party (including, but not limited to, an Affiliate of the Party) to perform the Party's obligations under this Agreement, provided that a Party's use of a contractor shall not release the Party from any duty or liability to fulfill the Party's obligations under this Agreement.

## 18. NOTICES

Unless otherwise specified in this Agreement, all notices required under this Agreement shall be given in writing. All notices shall be given by personal delivery, express delivery service with next Business Day delivery, confirmed facsimile (with copy delivered by personal delivery, express delivery service with next Business Day delivery or certified mail, return receipt requested) or certified mail, return receipt requested to the person(s) specified below or to such other addresses as a Party may designate by written notice to the other Party. If sent by the United States Postal Service mail, such notices shall be deemed received on the earlier of actual receipt or five (5) business days following deposit. For the other forms of notice, notice will be deemed given as of (a) where there is personal delivery of the notice, the date of actual receipt, (b) where the notice is sent via express delivery service for next Business Day delivery, the next Business Day after the notice is sent, and (c) where the notice is sent via facsimile telecopy, if the notice is sent on a Business Day and before 5 PM in the time zone where it is received, on the date set forth on the telecopy confirmation, or if the notice is sent on a non-Business Day or if the notice is sent after 5 PM in the time zone where it is received, the next Business Day after the date set forth on the telecopy confirmation.

Notices shall be sent to:

To Verizon Wireless: Verizon Wireless  
Port Center  
300 River Rock Blvd  
Murfreesboro, TN 37128  
Attn: Port Center Director  
Fax: 1-615-372-2425

With a copy to: Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Assistant General Counsel – Procurement &  
Technology  
Fax: (908) 306-7766

If to Carrier: [provide carrier notice information]

## 19. WAIVER

The delay or failure of either Party to enforce any of the provisions of this Agreement, or exercise in any respect any right or remedy provided for in this Agreement or at law or in equity, or to require performance of any of the provisions of this Agreement, or to exercise any option which is provided under this Agreement shall not be deemed a waiver of any such provisions, rights, remedies or options under this Agreement.

## 20. SEVERABILITY

If any of the provisions of this Agreement shall be invalid or unenforceable, then such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement. The entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.

## **21. LIMITATION OF LIABILITY**

Except as otherwise provided in this Agreement, neither Party shall be liable to the other Party, the other Party's Customers or to any other person in connection with the performance or nonperformance under this Agreement, including but not limited to, any claims for any indirect, incidental, consequential, special damages, including (without limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

## **22. ESCALATION PROCEDURES**

The Parties agree to provide each other with trouble reporting contacts and procedures via their respective web sites or other means agreed to by the Parties. In addition, the Parties agree to provide each other with escalation contacts and procedures via their respective web sites or other means agreed to by the Parties. Should a Party encounter any problems with respect to compliance with this Agreement that cannot be resolved through the trouble reporting contacts and procedures, then a Party may utilize the escalation contacts set forth in Appendix B ("Trouble Reporting General Contact Information") and the procedures set forth in Appendix C ("Carrier Escalation Procedures") and Appendix D ("Carrier Trouble Ticket Detail"). However, this Section 22 shall not operate in limitation or derogation of Sections 2 or 3 of this Agreement or the notice requirements set forth therein. In the event either Party fails to provide contact and procedures for trouble reporting and escalation, the Parties may utilize the Notice provisions set forth in Section 18.

In addition to the escalation procedures set forth in this Section 22, either Party may seek resolution of a dispute arising under this Agreement by pursuing any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the FCC or other regulatory body, or a court of competent jurisdiction; provided, however, that a Party pursuing any such remedy shall first notify the other Party of the dispute in writing through the Notice provisions set forth in Section 18 of this Agreement.

## **23. ARTICLE HEADINGS**

The headings of the Articles are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

## **24. CHOICE OF LAW**

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction.

## **25. AMENDMENTS, MODIFICATIONS AND SUPPLEMENTS**

Amendments, modifications and supplements to this Agreement are allowed, provided that (a) all such amendments, modifications and supplements shall be in writing signed by authorized representatives of both Parties; and (b) all such amendments, modifications and supplements shall by reference incorporate this Agreement in its entirety and identify the specific sections or paragraphs contained herein which are amended, modified or supplemented; and (c) all such amendments, modifications and supplements shall not be construed to adversely affect vested rights or causes of action

which have accrued prior to the effective date of such amendment, modification or supplement.

**26. ENTIRE AGREEMENT**

This Agreement together with its appendices constitutes the entire agreement between the Parties and cancels all contemporaneous or prior agreements, whether written or oral, with respect to the subject matter of this Agreement.

**27. RESERVATION OF RIGHTS**

Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party hereby expressly reserves, its rights to (a) challenge the lawfulness of this Agreement and any provision of this Agreement; (b) seek changes in this Agreement (including, but not limited to, changes in rates, charges and the porting services that must be offered) through changes in Applicable Law; and (c) challenge the lawfulness and propriety of, and to seek to change, any Applicable Law, including, but not limited to any rule, regulation, order or decision of the FCC, other regulatory body or a court of applicable jurisdiction. Nothing in this Agreement shall be deemed to limit or prejudice any position a Party has taken or may take before the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry fora. The provisions of this Section 27 shall survive the expiration, cancellation or termination of this Agreement.

**28. SURVIVAL**

The rights, liabilities and obligations of a Party for acts or omissions occurring prior to the expiration, cancellation or termination of this Agreement, the rights, liabilities and obligations of a Party under any provision of this Agreement regarding confidential information, indemnification or defense, or limitation or exclusion of liability, and the rights, liabilities and obligations of a Party under any provision of this Agreement which by its terms or nature is intended to continue beyond or to be performed after the expiration, cancellation or termination of this Agreement, shall survive the expiration, cancellation or termination of this Agreement.

**29. TERRITORY**

Verizon Wireless shall include a list of states in which its affiliates or other related entities operate and in which Verizon Wireless seeks to port Assigned Telephone Numbers with Carrier. With respect to Carrier this Agreement shall apply only to the territories in the states listed in Appendix E that are served by the Carrier affiliates listed in Appendix F. The foregoing shall not be construed to require that the porting between the Parties which is contemplated by this Agreement be memorialized by, or otherwise reduced to, an agreement under 47 U.S.C. §251 or otherwise construed to confer jurisdiction on states, including their regulatory agencies, over such porting unless otherwise conferred by Applicable Law.

**30. THIRD PARTY BENEFICIARIES**

Except as expressly set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein shall create or be construed to provide any third persons (including, but not limited to, Customers or contractors of a Party) with any rights (including, but not limited to, any third-party beneficiary rights) hereunder. Except as expressly set forth in this Agreement, a Party shall have no liability under this Agreement to the Customers of the other Party or to any other third person.

### 31. WARRANTIES

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED, OR TO BE PROVIDED, UNDER THIS AGREEMENT AND THE PARTIES DISCLAIM ANY OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE WARRANTIES AGAINST INFRINGEMENT, AND WARRANTIES ARISING BY TRADE CUSTOM, TRADE USAGE, COURSE OF DEALING OR PERFORMANCE, OR OTHERWISE.

### 32. INTELLECTUAL PROPERTY

- 32.1 Except as expressly stated in this Agreement, this Agreement shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by either Party. Except as expressly stated in this Agreement, neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual property right, of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.
- 32.2 Except as stated in Section 32.4, neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its Affiliates (for purposes of this Section 32.4, Affiliates shall include Verizon Wireless Entities) or Customers based on or arising from any Third Party Claim alleging or asserting that the provision or use of any service, facility, arrangement, or software by either Party under this Agreement, or the performance of any service or method, either alone or in combination with the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any Party or third person. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.
- 32.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY EACH PARTY OF THE OTHER'S SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.
- 32.4 The Parties agree that the services provided hereunder shall be subject to the terms, conditions and restrictions contained in any applicable agreements (including, but not limited to software or other intellectual property license agreements) between the Parties and their respective vendors. The Parties agree to advise each other, directly or through a third party, of any such terms, conditions or restrictions that may limit a Party's use of a service provided by the other Party that is otherwise permitted by this Agreement. Upon written request of a Party, to the extent required by Applicable Law, the Party receiving such request will use its best efforts, as commercially practicable, to obtain intellectual property rights from its vendor to allow the requesting Party to use the service in the same manner as the Party receiving such request that are coextensive with its intellectual property rights, on terms and conditions that are equal in quality to



the terms and conditions under which it has obtained its intellectual property rights. The Party making such request shall reimburse the other Party for the cost of obtaining such rights.

### 33. CONFIDENTIALITY

33.1 As used in this Section 33, "Confidential Information" means the following information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with, or anticipation of, this Agreement:

33.1.1 books, records, documents and other information disclosed pursuant to this Agreement;

33.1.2 any forecasting information provided pursuant to this Agreement;

33.1.3 Customer Information (except to the extent that (a) the Customer information is published in a directory, (b) the Customer information is disclosed through or in the course of furnishing a Telecommunications Service, such as a Directory Assistance Service, Operator Service, Caller ID or similar service, or LIDB service where such disclosure is otherwise authorized by applicable agreements or law, or (c) the Customer to whom the Customer Information is related has authorized the Receiving Party to use and/or disclose the Customer Information);

33.1.4 information related to specific facilities or equipment (including, but not limited to, cable and pair information);

33.1.5 any information that is in written, graphic, electromagnetic, or other tangible form, and marked at the time of disclosure as "Confidential" or "Proprietary"; and

33.1.6 any information that is communicated orally or visually and declared to the Receiving Party at the time of disclosure, and by written notice with a statement of the information given to the Receiving Party within ten (10) days after disclosure, to be "Confidential" or "Proprietary."

Notwithstanding any other provision of this Agreement, a Party shall have the right to refuse to accept receipt of information that the other Party has identified as Confidential Information pursuant to Sections 33.1.5 and 33.1.6.

33.2 Except as otherwise provided in this Agreement, the Receiving Party shall:

33.2.1 use the Confidential Information received from the Disclosing Party only in performance of this Agreement; and

33.2.2 using the same degree of care that it uses with similar confidential information of its own (but in no case a degree of care that is less than commercially reasonable), hold Confidential Information received from the Disclosing Party in confidence and restrict disclosure of the Confidential Information solely to those of the Receiving Party's Affiliates (for purposes of this Section 33, Affiliates shall include Verizon Wireless Entities) and the directors, officers, employees, agents and contractors of the Receiving Party and the Receiving Party's Affiliates, that have a need to receive such Confidential Information in order to perform the Receiving Party's obligations under this Agreement. The Receiving

Party's Affiliates and the directors, officers, employees, agents and contractors of the Receiving Party and the Receiving Party's Affiliates, shall be required by the Receiving Party to comply with the provisions of this Section 33 in the same manner as the Receiving Party. The Receiving Party shall be liable for any failure of the Receiving Party's Affiliates or the directors, officers, employees, agents or contractors of the Receiving Party or the Receiving Party's Affiliates, to comply with the provisions of this Section 33.

- 33.3 The Receiving Party shall return or destroy all Confidential Information received from the Disclosing Party, including any copies made by the Receiving Party, within thirty (30) days after a written request by the Disclosing Party is delivered to the Receiving Party, except for (a) Confidential Information that the Receiving Party reasonably requires to perform its obligations under this Agreement, and (b) one copy for archival purposes only.
- 33.4 Unless otherwise agreed, the obligations of Sections 33.2 do not apply to information that:
- 33.4.1 was, at the time of receipt, already in the possession of or known to the Receiving Party free of any obligation of confidentiality and restriction on use;
  - 33.4.2 is or becomes publicly available or known through no wrongful act of the Receiving Party, the Receiving Party's Affiliates, or the directors, officers, employees, agents or contractors of the Receiving Party or the Receiving Party's Affiliates;
  - 33.4.3 is rightfully received from a third person having no direct or indirect obligation of confidentiality or restriction on use to the Disclosing Party with respect to such information;
  - 33.4.4 is independently developed by the Receiving Party;
  - 33.4.5 is approved for disclosure or use by written authorization of the Disclosing Party (including, but not limited to, in this Agreement); or
  - 33.4.6 is required to be disclosed by the Receiving Party pursuant to Applicable Law, provided that the Receiving Party shall have made commercially reasonable efforts to give adequate notice of the requirement to the Disclosing Party in order to enable the Disclosing Party to seek protective arrangements.
- 33.5 Notwithstanding the provisions of Sections 33.1 through 33.4, the Receiving Party may use and disclose Confidential Information received from the Disclosing Party to the extent necessary to enforce the Receiving Party's rights under this Agreement or Applicable Law. In making any such disclosure, the Receiving Party shall make reasonable efforts to preserve the confidentiality and restrict the use of the Confidential Information while it is in the possession of any person to whom it is disclosed, including, but not limited to, by requesting any governmental entity to whom the Confidential Information is disclosed to treat it as confidential and restrict its use to purposes related to the proceeding pending before it.

- 33.6 The Disclosing Party shall retain all of the Disclosing Party's right, title and interest in any Confidential Information disclosed by the Disclosing Party to the Receiving Party. Except as otherwise expressly provided in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not limited to, under any patent, trademark or copyright), nor is any such license to be implied solely by virtue of the disclosure of Confidential Information.
- 33.7 The provisions of this Section 33 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to the use, or protection of the confidentiality of, CPNI provided by Applicable Law.
- 33.8 Each Party's obligations under this Section 33 shall survive expiration, cancellation or termination of this Agreement.

#### 34. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement through their authorized representatives on the date or dates below to be effective when executed by both Parties.

CARRIER

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

VERIZON WIRELESS  
(Continued on next page)

Allentown SMSA Limited Partnership d/b/a Verizon Wireless  
 By Bell Atlantic Mobile Systems of Allentown, Inc., Its General Partner

Anderson CellTelCo d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Athens Cellular, Inc. d/b/a Verizon Wireless

Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Bell Atlantic Mobile of Asheville, Inc. d/b/a Verizon Wireless

Bell Atlantic Mobile of Rochester, LP d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

Binghamton MSA Limited Partnership d/b/a Verizon Wireless  
 By NYNEX Mobile of New York Limited Partnership, Its General Partner  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

Bismarck MSA Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Boise City MSA Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

California RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
 By Pinnacles Cellular, Inc., Its General Partner

Cellco Partnership d/b/a Verizon Wireless

Cellular Inc. Network Corporation d/b/a Verizon Wireless

Chicago 10 MHz LLC d/b/a Verizon Wireless  
 By Cellco Partnership, Its Sole Member

Chicago SMSA LP d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Colorado 7 – Saguache Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

CommNet Cellular License Holding LLC d/b/a Verizon Wireless  
 By Cellular Inc. Financial Corporation, Its Sole Member

CyberTel Cellular Telephone Company d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Dallas MTA, LP d/b/a Verizon Wireless  
 By Verizon Wireless Texas, LLC, Its General Partner

Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Des Moines MSA General Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Dubuque MSA Limited Partnership d/b/a Verizon Wireless  
 By Southwestco Wireless, LP, Its General Partner  
 By Southwestco Wireless, Inc., Its General Partner

Duluth MSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Minnesota, LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless

Fayetteville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Fresno MSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Gadsden CellTelCo Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Gila River Cellular General Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its Managing General Partner

Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Grays Harbor-Mason Cellular Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

GTE Mobilnet of Florence, Alabama Incorporated d/b/a Verizon Wireless

GTE Mobilnet of Fort Wayne Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #6 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Santa Barbara Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Terre Haute Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Texas RSA #17 Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Texas RSA #21 Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of the Southwest LLC d/b/a Verizon Wireless  
 By Cellco Partnership, Its Sole Member

GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless

Hamilton Cellular Telephone Company d/b/a Verizon Wireless  
 By New Par, Its General Partner  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho 6 – Clark Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Idaho RSA No. 1 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Illinois RSA 1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Illinois RSA 6 and 7 Limited Partnership d/b/a Verizon Wireless  
 By Illinois SMSA Limited Partnership, Its General Partner  
 By Cellco Partnership, Its General Partner

Illinois SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Indiana RSA #1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Indiana RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Iowa 8 – Monona Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

Iowa RSA 5 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

Iowa RSA 10 General Partnership  
By Cellco Partnership d/b/a Verizon Wireless, Its Manager

Iowa RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
By GTE Wireless of the Midwest Incorporated, Its General Partner

Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless  
By AirTouch Cellular, Its General Partner

Missouri Valley Cellular, Inc. d/b/a Verizon Wireless  
By CommNet Cellular, Inc., Its Managing Agent

Modoc RSA Limited Partnership d/b/a Verizon Wireless  
By AirTouch Cellular, Its General Partner

Muskegon Cellular Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

NC-2 LLC d/b/a Verizon Wireless

New Hampshire RSA 2 Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

New Mexico RSA 3 Limited Partnership d/b/a Verizon Wireless  
By GTE Mobilnet of the Southwest LLC, Its General Partner  
By Cellco Partnership, its Sole Member

New Mexico RSA 6-I Partnership d/b/a Verizon Wireless  
By GTE Mobilnet of the Southwest LLC, Its General Partner  
By Cellco Partnership, Its Sole Member

New Mexico RSA No. 5 Limited Partnership d/b/a Verizon Wireless  
By GTE Mobilnet of the Southwest LLC, Its General Partner  
By Cellco Partnership, Its Sole Member

New Par d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

New York RSA No. 3 Cellular Partnership d/b/a Verizon Wireless  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

New York SMSA Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

North Dakota RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
By AirTouch North Dakota, LLC, Its General Partner

Northeast Pennsylvania SMSA Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Northern New Mexico Limited Partnership d/b/a Verizon Wireless  
By Cellular Inc. Network Corporation, Its General Partner

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

NYNEX Mobile of New York, LP d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Olympia Cellular Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Omaha Cellular Telephone Company d/b/a Verizon Wireless  
     By AirTouch Nebraska, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless of the East LP, Its General Partner  
     By Verizon Wireless of Georgia LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Oxnard-Ventura-Simi Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 Pennsylvania 3 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania 4 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA 1 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (I) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (II) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsburgh SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsfield Cellular Telephone Company d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Platte River Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Portland Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pueblo Cellular, Inc. d/b/a Verizon Wireless  
 Redding MSA Limited Partnership d/b/a Verizon Wireless  
     By Sacramento Valley Limited Partnership, Its General Partner  
     By AirTouch Cellular, Its General Partner  
 Rockford MSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 RSA 7 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Iowa RSA 7, LLC, Its Managing Partner  
     By Cellco Partnership, Its Sole Member  
 Sacramento Valley Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 San Antonio MTA, L.P. d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 San Isabel Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Sanborn Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Sangre De Cristo Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Seattle SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Sioux City MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner

Smoky Hill Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Southern & Central Wireless, LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Southern Indiana RSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Southwestco Wireless LP d/b/a Verizon Wireless  
     By Southwestco Wireless Inc., Its Managing Partner  
 Spokane MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Springfield Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
         By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Joseph CellTelCo d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Syracuse SMSA Limited Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 The Great Salt Flats Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Topeka Cellular Telephone Company, Inc. d/b/a Verizon Wireless  
 Tuscaloosa Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Upstate Cellular Network d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Utah RSA 6 Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Verizon Wireless (VAW) LLC d/b/a Verizon Wireless  
 Verizon Wireless of the East LP d/b/a Verizon Wireless  
     By Verizon Wireless of Georgia LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Verizon Wireless Personal Communications LP d/b/a Verizon Wireless  
 Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Vermont RSA Limited Partnership d/b/a Verizon Wireless  
     By NYNEX Mobile Limited Partnership 1, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Virginia RSA 5 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Virginia 10 RSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Wasatch Utah RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Washington, DC SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Waterloo MSA Limited Partnership d/b/a Verizon Wireless  
     By Southwestco Wireless LP, Its General Partner  
         By Southwestco Wireless Inc., Its General Partner



Wyoming 1 – Park Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## LOCAL NUMBER PORTABILITY OPERATIONS AGREEMENT

This Local Number Portability Operations Agreement ("Agreement") is entered into by and between Western Wireless Corporation ("Western") and \_\_\_\_\_ ("\_\_\_\_\_"). Western and \_\_\_\_\_ are each individually a "Party" and are together the "Parties" to this Agreement.

WHEREAS, the above named Parties wish to enter into an Agreement with each other in compliance with applicable laws and regulations.

WHEREAS, the Parties wish to enter into an Agreement to facilitate the ability of Customers to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement through Local Number Portability.

WHEREAS, the Parties wish to enter into an Agreement to establish practices and procedures to ensure that Customer requests to port numbers are achieved efficiently and with minimal delays.

THEREFORE, the Parties wish to enter into this Agreement on the following terms and conditions:

### 1. DEFINITIONS

Any term not specifically defined here shall be given the meaning provided for in FCC Orders governing LNP.

- 1.1. Act: Means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended and interpreted in the rules and regulations of the FCC.
- 1.2. Affiliate: Means any entity, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with a Party hereto.
- 1.3. Agreement: Means this Local Number Portability Operations Agreement, including all appendices attached hereto, future amendments, modifications and supplements made in accordance herewith.
- 1.4. CORBA is an acronym for: Common Object Request Broker Architecture.
- 1.5. Competitive Local Exchange Carrier ("CLEC") is defined in the Act.
- 1.6. Commercial Mobile Radio Service ("CMRS") is as defined in the Act.
- 1.7. Customer: An active end user and subscriber of the OSP who desires to receive service from the NSP using the same telephone number that is associated with the service(s) the subscriber receives from the OSP.
- 1.8. Customer Service Records ("CSR") are the records that contain the identity, service address, rate plan or plans, and other information on the Customer.

- 1.9. Electronic Data Interface ("EDI") is a data interface for exchange of information between providers.
- 1.10. Federal Communications Commission ("FCC"): Means the regulatory, governing body directing the activities associated with this Agreement.
- 1.11. Inter-carrier Communications Process ("ICP"): The communication process between the OSP and the NSP, which validates the customer information and initiates and completes the port request. The ICP includes the exchange of the LSR/LR.
- 1.12. Local Exchange Routing Guide ("LERG") is a Traffic and Routing Administration maintained industry table identifying switches with their assigned telephone numbers.
- 1.13. Local Number Portability ("LNP"): The ability of a Customer to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement pursuant to FCC Rules.
- 1.14. Local Response ("LR"): A form for responding to an LSR. A sample LR and descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG") of the Ordering and Billing Forum..
- 1.15. Local Service Request ("LSR"): Forms containing information about a Customer who desires to port a telephone number to the NSP. A sample LSR and descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG") of the Ordering and Billing Forum.
- 1.16. Location Routing Number ("LRN"): Ten-digit number assigned to a switch or point of interconnection used for routing calls.
- 1.17. Metropolitan Statistical Areas ("MSA"): An MSA denotes a large urban population market as designated by the U.S. government.
- 1.18. New Service Provider ("NSP"): The new provider that will provide service to Customer and to whom Customer ports its telephone number.
- 1.19. Number Portability Administration Center ("NPAC"): A neutral third party center that processes porting information from and disseminates that information to telecommunications carriers. The NPAC processes the NSP subscriber port request and downloads the LRN associated with the subscriber ported telephone number to local number portability databases.
- 1.20. Old Service Provider ("OSP"): The provider providing service to the customer at the time the customer requests porting of the MDN.
- 1.21. Rate Center: Geographic areas that utilize a common geographical point of reference for distance measurements, called a rating-point, which is defined by Vertical and Horizontal Coordinates.

- 1.22. Working Telephone Number: A telephone number that is assigned to a Customer that can originate and terminate telephone calls through the Public Switched Telephone Network.

## 2. PURPOSE OF AGREEMENT

The parties desire to enter into this Agreement consistent with all applicable FCC rules and regulations.

## 3. TERM

This Agreement shall become effective May 24, 2004 and, except as otherwise provided in this Agreement, shall continue in full force and effect until either Party terminates the Agreement by providing notice of termination in writing to the other Party at least sixty (60) in advance of such termination pursuant to the Notice provisions set forth in Section 19 of this Agreement. Upon termination, the Parties shall continue to provide LNP if required by applicable laws and regulations.

## 4. NUMBER PORTING

### 4.1. Scope

The Parties shall provide LNP and port Working Telephone Numbers on a reciprocal basis pursuant to this Agreement. The Parties will open all switches and associated NPA-NXXs to support number portability in the serving areas identified in Appendix A.

NXX codes shall be portable in accordance with FCC Rules and Regulations except those permitted to be designated non-portable by the same FCC Rules and Regulations.

### 4.2. Procedures for Providing LNP

- 4.2.1. The Parties shall ensure that all switches, whether currently owned or hereafter acquired, are upgraded to facilitate LNP to the extent required by FCC Rules and Regulations. The Parties shall, as required by FCC orders, disclose upon request any technical limitations that would prevent LNP in any connecting office.
- 4.2.2. The Parties will follow the LNP provisioning process flow and porting intervals recommended by the North American Numbering Council (NANC) for Inter-Service Provider LNP between wireline and wireless carriers. This includes the recommendations of the Local Number Portability Administration Work Group to adopt the Inter-Service Provider LNP Operations Flows and the same porting intervals until the FCC provides further confirmation or modification of these processes.
- 4.2.3. The Parties will follow the LNP ordering procedures established at the OBF for porting of Assigned Telephone numbers.
- 4.2.4. When a telephone number is ported out of the OSP's network, the OSP will, if applicable, remove all line based features and calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if applicable, is the responsibility of the NSP or the Customer.

- 4.2.5. When a telephone number is ported out of the OSP's network, the OSP will follow the 911 Guidelines recommended by the National Emergency Number Association ("NENA") with regard to emergency services databases.
- 4.2.6. When an OSP ports Customer telephone number(s) to the NSP, the OSP shall implement the ten-digit trigger feature where it is available. When the OSP receives the port request, the unconditional trigger shall be applied to the Customer's telephone number prior to the due date and time identified in the port request. When the unconditional trigger is not available, the Parties shall use standard NPAC concurrence procedures.
- 4.2.7. LNP Software is required to be in place and tested prior to any order submission.
- 4.2.8. Reserved numbers may be ported if there is at least one Working Telephone Number in the group.

## 5. LIMITATIONS OF SERVICE

A telephone number can only be ported to a NSP if the Rate Center associated with the NPA-NXX is within the NSP's license area or authorized service area. A telephone number can be ported from a wireline to CMRS Party if the Rate Center associated with the NPA-NXX is within the CMRS provider's license area. A telephone number can be ported from a CMRS to a wireline Party if the Rate Center associated with the NPA-NXX is within the wireline service provider's authorized service area. The Parties recognize that certain NXXs may be non-portable, including those NXXs assigned for internal testing and official use, and any NXXs required to be designated as non-portable by the rules and regulations of the FCC.

## 6. SERVICE DESCRIPTION

Ordering: Both Parties agree to follow the provisions set forth in Appendix D for the exchange of information required to port a customer and the processing of LNP orders.

- 6.1 Pre-order: The Parties agree that a NSP must obtain the affirmative consent of a Customer to authorize the porting of any Working Telephone Number(s) and the disclosure of such Customer's information between the Parties as necessary to facilitate LNP processing.
- 6.2 After receiving a request from a Customer to port telephone number(s), the New Service Provider may request the CSR of the Customer from the Old Service Provider.
- 6.3 Order: The Parties agree that a NSP must submit an order for LNP to the OSP using a 'Local Service Request' (LSR).
- 6.4 All numbers on a LSR that are requested to be ported must reside within the same LRN within an NPAC region. If a customer is requesting to port numbers from multiple LRNs within an NPAC region, a separate LSR must be submitted for all numbers in each LRN within an NPAC region.
- 6.5 Type 1 Number Porting: The Parties agree to migrate all telephone numbers assigned to Type 1 trunks to the Western Wireless mobile switching center utilizing the LNP process. The entire



Deactivation:

- Return of Numbers:

- ## 7. TROUBLE, MAINTENANCE, AND REPAIR

- PAGE 03

9. PRICING/COSTS

The Parties to this Agreement are responsible for their own costs associated with this Agreement or the porting process, unless otherwise specified in this Agreement.

10. TESTING

- 10.1 Each Party shall designate a single point of contact (SPOC) to schedule and perform required tests. These tests shall be performed during a mutually agreed time frame and must conform to industry portability testing and implementation criteria in force in the NPAC region.
- 10.2 Both Parties shall be certified by the regional NPAC prior to scheduling inter-company testing of LNP.
- 10.3 Both Parties shall exchange information identified in Appendix B prior to the commencement of testing.

11. FRAUD

The Parties agree to cooperate in good faith with each other to investigate, minimize, and take corrective action in cases of fraud related to number portability.

12. USE OF TRADEMARKS

The Parties agree that they will not use the name, service marks or trademarks of the other Party or any of its affiliated companies in any manner whatsoever, without such Party's specific written consent. Neither Party is licensed hereunder to conduct business under any logo, trademark, service or trade name (or any derivative thereof) of the other Party. Neither Party shall issue any press release or other publicity concerning this Agreement without the prior consent of the other Party.

13. COMPLIANCE WITH LAWS

The Parties shall comply with all federal, state and local laws applicable to their performance hereunder.

14. FORCE MAJEURE

Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by reason of acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, or any other circumstances beyond the reasonable control and not involving any fault or negligence of the Delayed Party ("Condition"). If any such Condition occurs, the Party delayed or unable to perform ("Delayed Party"), upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis during the continuance of such Condition (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period); provided, however, that the Party so affected



shall use its best reasonable efforts to avoid or remove such Condition and both Parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease.

15. ASSIGNMENT

This Agreement may not be assigned or transferred without the prior written consent of the other Party, which consent may not be unreasonably withheld. Notwithstanding the prior sentence, no prior written consent shall be required for a Party to assign or transfer this Agreement to any subsidiary, Affiliate, parent or successor in interest, or to any entity which acquires all or substantially all of its assets and agrees to be bound by the terms and conditions of this Agreement, provided however, that the assigning Party shall notify the other Party of such assignment or transfer as soon as reasonably practical.

16. BINDING EFFECT

This Agreement shall inure to the benefit of, and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

17. INDEMNIFICATION

17.1 Each Party shall indemnify and hold harmless the other from any liabilities, claims, or demands, including costs, expenses and reasonable attorney's fees ("Claims") made by third parties resulting from the negligence and/or willful misconduct of a Party, its employees and agents in the performance of this Agreement.

17.2 A Party seeking to be indemnified hereunder will provide the other Party with prompt, written notice of any Claim covered by this indemnification and will cooperate appropriately with the indemnifying Party in the defense thereof. The indemnifying Party shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of each indemnified Party, such consent not to be unreasonably withheld or delayed.

18. RELATIONSHIP OF THE PARTIES

Neither Party undertakes by this Agreement or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. Nothing contained in this Agreement is intended to give rise to an employment relationship, partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of employers, partners or joint venturers.

19. NOTICES

Unless otherwise specified in this Agreement, all notices required under this Agreement shall be given in writing. All notices shall be given by personal delivery, overnight courier, confirmed facsimile or

certified mail, return receipt requested to the person(s) specified below or to such other addresses as a Party may designate by written notice to the other Party. If sent by overnight courier or by the United States Postal Service mail, such notices shall be deemed received on the earlier of actual receipt or five (5) business days following deposit.

Notices shall be sent to:

For Western Wireless Corporation:

Regulatory Department  
3650 131<sup>st</sup> Avenue, S.E., Suite 400  
Bellevue, Washington 98006

Email: Regulatory@wwireless.com

Fax: 425-586-8118

For Carrier B:

(Insert Name & Address)

Email:

Fax:

## 20. WAIVER

The waiver or failure of either Party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.

## 21. SEVERABILITY

This Agreement shall be subject to all applicable federal, state and local laws, court orders, agency orders, rules and regulations of all governmental agencies and authorities. In the event this Agreement, any of the provisions of this Agreement, or any of the activities under this Agreement, are determined to be inconsistent with or contrary to any applicable federal, state or local laws, court orders, agency orders, rules, or regulations, the latter shall control and any inconsistent term or condition of this Agreement shall terminate without any additional liability attaching to either Party. If the Agreement lawfully can be continued, it is commercially practicable to do so, and the intent of the Parties can be effectuated without the stricken provision, then the Agreement shall continue as amended and the Parties agree to negotiate any such necessary amendments. If the Agreement lawfully can be continued, it is commercially practicable to do so, and the intent of the Parties can be effectuated, but only by further modification of the Agreement, the Parties may so modify the Agreement by executing an appropriate amendment to this Agreement; if the Parties choose not to so modify this Agreement, then this Agreement shall terminate without any additional liability attaching to either Party and further performance shall be excused.

## 22. Limitation of Liability

Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for indirect, incidental, consequential, special damages, including (without

limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

## 23. ESCALATION PROCEDURES

The Parties shall agree to a single point of contact in each company who shall be notified in the event a Party encounters a post-porting issue(s) or a case of suspected breach of this agreement. This action should precede actions by a Party under Section 24 Dispute Resolution. Once a Party institutes Escalation Procedures under this Section, all Parties shall refrain for three (3) days from taking any action under Section 24. The points of contact for each Party are as follows:

For Carrier A:

(Insert Name & Address)

For Carrier B:

(Insert Name & Address)

## 24. DISPUTE RESOLUTION

### 24.1 General Provisions

- a. Without limitation of the Parties' right to bring a dispute otherwise within the jurisdiction of a regulatory agency before such agency or unless otherwise required by law, the Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, in the event of a dispute, claim or controversy arising under this Agreement ("Dispute"), the affected Party shall resolve the Dispute as provided herein.
- b. At the written request of a Party to invoke the procedures hereunder, each Party shall appoint within five (5) days of the request a knowledgeable, responsible representative to meet and negotiate in good faith to resolve a Dispute. Parties may be represented by counsel to assist in and/or conduct such negotiations. The discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery and production, which shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise admissible, be admitted in evidence in the arbitration or lawsuit.
- c. If the foregoing negotiations do not resolve the Dispute within sixty (60) days of the initial written request, either Party may serve upon the other Party by certified mail a written demand that the Dispute be arbitrated, specifying in reasonable detail the nature of the Dispute to be submitted to arbitration in accordance with Section 23.2, below. The demand, effective upon receipt, shall be made within a reasonable time after the Dispute, has arisen. In no event shall

the demand for arbitration be made more than one year after the underlying cause of action arises.

- d. The arbitration hearing shall commence within forty-five days after the demand for arbitration. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings.
- e. Notwithstanding the Dispute Resolution provisions set forth in Section 23, the provisions in this Agreement addressing Severability as set forth in Section 21 and the provisions allowing for termination as set forth in Section 1.2 take precedence. If the Agreement is terminated any initial negotiations or arbitration in progress shall cease and become moot.

#### 24.2 ARBITRATION.

- a. Agreement to Arbitrate Disputes. Except as set forth in Section 23.1 above, the Parties agree that in the event of any Dispute, such Dispute shall be resolved exclusively by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof. The Federal Arbitration Act, 9 U.S.C. Secs. 1-15, not state law, shall govern the arbitrability of all Disputes.
- b. Selection of Arbitrator. The Parties further agree that they will ask the American Arbitration Association administrator in the area in which LNP is being provided, to provide to each Party to the Dispute a list of five (5) proposed arbitrators qualified to decide the controversy and who are experienced in telecommunications law. Within seven (7) days of receipt of this list, each Party to the Dispute will cross off names of proposed arbitrators the Party does not wish to use, leaving at least two candidates on the list, will number the remaining names in the order of preference, and will return the annotated list to the administrator. The administrator will select an arbitrator from the modified lists of preferences. The Parties will accept the administrator's selection of the Arbitrator.
- c. Discovery. Discovery shall not be permitted in such arbitration except as allowed by the rules of AAA or such other arbitration agency selected by the Parties pursuant to Section 23.2(a), or as otherwise agreed to by the Parties.
- d. Arbitration Award or Decision. The Parties agree that the arbitrator shall have no power or authority to make awards or issue orders of any kind except as permitted by this Agreement and substantive law, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. The arbitrator's decision shall follow the plain meaning of this Agreement and the relevant documents. The arbitrator's award shall be final and binding and may be enforced in any court of competent jurisdiction. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator.

#### 25. ARTICLE HEADINGS

The headings of the Articles are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

26. CHOICE OF LAW AND JURISDICTION

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the state in which LNP is being provided, without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction.

27. AMENDMENTS

Amendments, modifications and supplements to this Agreement are allowed provided: (a) all such amendments, modifications and supplements shall be in writing signed by authorized representatives of both Parties, and (b) all such amendments, modifications and supplements shall by reference incorporate this Agreement in its entirety and identify the specific sections or paragraphs contained herein which are amended, modified or supplemented, and (c) all such amendments, modifications and supplements shall not be construed to adversely affect vested rights or causes of action which have accrued prior to the Effective Date of such amendment, modification or supplement.

28. ENTIRE AGREEMENT

This Agreement together with its exhibits constitutes the entire agreement between the Parties and cancels all contemporaneous or prior agreements, whether written or oral, with respect to the subject matter of this Agreement. No modifications shall be made to this Agreement unless in writing and signed by authorized representatives of the Parties.

29. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement through their authorized representatives.

WESTERN WIRELESS CORPORATION      CARRIER B

\_\_\_\_\_  
(Signature of Officer or Authorized Agent)

\_\_\_\_\_  
(Signature of Officer or Authorized Agent)

\_\_\_\_\_  
(Printed Name of Officer or Authorized Agent)

\_\_\_\_\_  
(Printed Name of Officer or Authorized Agent)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

00107 / 07 / 77

Exhibit R-3-TB

# Trading Partner Profile for Porting between Sprint and <Trading Partner>

C O N T A C T	Item	Sprint	<Trading Partner>
	Effective Date		
	Primary contact name	Porting Center	
	Contact description	Porting Center	
	Phone number #1	Tbd	
	Phone number #2		
	FAX number	813-273-3403 (will change 3Q03)	
	Email address		
	Other		
	Note: The primary contact is also assumed to be the first point of contact for profile changes.		
	Secondary contact name	Network Operations Center	
	Contact description	Network Operations Center	
	Phone number #1	800-892-2888	
	Phone number #2	813-273-3440	
	FAX number	813-273-3570	
	Email address	Netops@tsiconnections.com	
	Other	Hotline@tsiconnections.com	

O P E R A T I O N S	Item	Sprint	<Trading Partner>
	... Common ...		
	Operating Company No. (OCN)	See following list of OCNs	
	Administrative OCN	6664	
	Wireless or Wireline	Wireless or Wireline	
	Holiday Days (mm/dd/yy)	Standard NPAC holiday schedule	
	Holiday time begin (hh:mm)	17:00 EST on business day before	
	Holiday time end (hh:mm)	8:00 EST on business day after	
	... for Test ...		
	Service Provider ID (SPID)	Primary: 9990, Secondary: 7778	
	LSMS SPID	7777	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WCIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	Monday through Friday	
	Business day begin (hh:mm)	7:00 CST	
	Business day end (hh:mm)	16:00 CST	
	... for Production ...		
	Service Provider ID (SPID)	6664	
	LSMS SPID	0661	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WCIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	24x7 except NPAC maintenance	
	Business day begin (hh:mm)	hours	
	Business day end (hh:mm)		



C  
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A

Item	Sprint	<Trading Partner>	
... for Test ...			
Porting Method: Primary, Secondary, N/A	Current, Telcordia SMG 4.0 & 4.1. Future = SMG 4.2 (~Sep, 2003)		
ICP Package/Application ("send to")	SMG 4.0/4.2: 205.174.182.182 SMG 4.1: 205.174.188.227		
ICP Physical Server ("receive from")	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229		
Failover ICP Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228		
SOA Application	SMG 4.0/4.2: 205.174.182.181 SMG 4.1: 205.174.188.226		
SOA Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228		
Failover SOA Server	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229		
Application Port Information	29990 (setup as "2" + SPID)		
Naming Service / IOR	Static IP (or N/A)		
DLCI	N/A		
LDAP Provider	N/A		
Security Requirements	N/A		
Firewall Requirements	Allow TCP and UDP traffic		
SSL Requirements	N/A		
Proprietary Requirements	N/A		
Service IDL version	N/A (Currently at 2.0 ??)		
Implementation OMG standard compliant?	Yes		
... for Test OMG CORBA Standards Supported ...			
Vendor	Product Name/Version	OMG CORBA Version	IIOP Version
Borland	CORBA		
... for Production ...			
Porting Method: Primary, Secondary, N/A	Current, Production = SMG 4.0 Future = SMG 4.1 (mid-July) SMG 4.2 (~October, 2003)		
ICP Package/Application ("send to")	SMG 4.0: 205.174.185.139		
ICP Physical Server ("receive from")	SMG 4.0: 205.174.185.237		
Failover ICP Server	SMG 4.0: 205.174.185.236		
SOA Application	SMG 4.0: 205.174.185.138		
SOA Server	SMG 4.0: 205.174.185.236		
Failover SOA Server	SMG 4.0: 205.174.185.237		
Application Port Information	29990 (setup as "2" + SPID)		
Naming Service / IOR	Static IP (or N/A)		
DLCI	N/A		
LDAP Provider	N/A		
Security Requirements	N/A		
Security Requirements	N/A		
Firewall Requirements	Allow TCP and UDP traffic		

	SSI Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A (Currently at 2.0 ??)	
	Implementation OMG standard compliant?	Yes	
	... for Test OMG CORBA Standards Supported ...		
	Vendor	Product Name/Version	OMG CORBA Version
	Borland	CORBA	IIOP Version

F A X	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	813-273-3403	
	Backup FAX number	Tbd	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	Tbd	

E D I	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		

O T H E R	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Queue Name, Queue Manager, and a channel	
	... for Production ...		

Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Que Name, Que Manager, and a channel	
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The parties agree that information contained in the Trading Partner Profile is operational in nature and subject to change. The parties agree to make every effort to give the other party 30 days notice of any changes to its information.

### Sprint OCNs

OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:
4058	4060	4061	4064	4065	4066	4098	4099
6032	6664	6982	8440	8441	8442	8443	8444
8445	8446	8447	8448	8449	8450	8451	8452
8453	8454	8455	8456	8457	8458	8459	8460
8461	8462	8463	8564	8566	8567	8568	8570
8571	8572	8574	8575				

## Information Required for Logging Trouble Tickets

### Sprint PCS:

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

### Trading Partner:

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

## Porting Validation Standards

### Information Required for Port Validation:

#### Sprint PCS:

Last Name or Business Name

Zip Code

SSN or Tax ID or Acct. No.

MDN

If corporate liable - a password or pin number.

#### Trading Partner:

## Porting Business Rules Exhibit E

### Sprint PCS:

- Complex Ports – Sprint PCS will accept only single line ports. Multiline ports must be submitted as multiple single line ports.
- Resellers – Sprint PCS will accept port requests on behalf of our resellers, however all validation is based on the resellers' processes.

### Trading Partner:

- TBD

## WIRELINE TRADING PARTNER PROFILE

### Table of Contents

Part A - Trading Partner Profile

Part B - General Contact Information and Trouble Reporting Contact Information

Part C - Trouble Ticket Detail

Part D - Porting Validation Standards

Part E - Affiliate Lists

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Part A  
Trading Partner Profile

For Verizon Wireless:

Company Name – Verizon Wireless (Verizon Wireless Affiliates are identified in Part E hereto)  
Administrative OCN – G056

OCN LIST FOR VERIZON  
WIRELESS

STATE	OCN	STATE	OCN
AL	6804	MT	6564
AR	6805	NE	5807
AZ	6572	NC	6324
CA	6006	ND	6568
CO	6567	NH	6386
CT	6388	NV	6458
DC	6402	NJ	6391
DE	6393	NY	6959
FL	6502	NM	6573
GA	6540	OH	6025
HI	6516	OK	5813
IA	6570	OR	6523
ID	6565	PA	6392
IL	6333	RI	6389
IN	6725	SC	6398
KS	6532	SD	6569
KY	6500	TN	6673
LA	6505	TX	6506
ME	6386	UT	6571
MA	6387	VA	6827
MD	6395	VT	6390
MS	6396	WV	6394
MO	5814	WA	6246
MN	5816	WI	6508
MI	6003	WY	6566

Verizon Wireless Service Order Activation System SPID – 6006  
 Verizon Wireless Local Service Management System SPID – 0572, 6827

Address – Port Center  
 300 River Rock Blvd.  
 Murfreesboro, TN 37128  
 Country – USA

For Wireline Carrier B:

Company Name: Wireline Carrier B to provide list of Affiliates on Part 0.

Wireline Carrier B to insert OCN with associated states here and to complete items on the table below:

Address: [insert address]

City: [insert address]

Country: USA

CONTACT	Item	Verizon Wireless	Wireline Carrier B
	Effective Date		
	Note: The above contact is also assumed to be the first point of contact for profile changes.		
	Contact name for Wireline Carrier	Verizon Wireless Port Center	
	Contact description	Port Center - General Information	
	Phone number	1-800-488-2002 (not available until 11/24/05)	

OPERATIONAL	Item	Verizon Wireless	Wireline Carrier B
	... Common information for testing and production environments ...		
	Administrative OCN	G056	
	Administrative Authorized Exchange Carrier Name (if applicable)	EBAW	
	Holiday Days (List Days)	N/A	
	Holiday time begin (hh:mm)	N/A	
	Holiday time end (hh:mm)	N/A	
	... for Testing ...		

Service Provider SOA ID (SPID)	6006	
LSMS SPID	0572, 6827	
WPR / LSR Version ID	Preference to latest industry-supported version. WPR is for WLS-WLN porting, LSR is for WLN-WLS.	
WPRR / FOC Version ID	Preference to latest industry-supported version.	
Time Zone (PST, MST, CST, EST)	Coordinated per Time Zone, per contact information in Part B.	
Business days (Sun, Mon, etc.)	Testing to be coordinated per contact information in Part B	
Business day begin (hh:mm)	Testing to be coordinated per contact information in Part B	
Business day end (hh:mm)	Testing to be coordinated per contact information in Part B	
... for Production ...		
Service Provider SOA ID (Verizon Wireless SPID)	6006	
LSMS SPID	0572, 6827	
WPR / LSR Version ID	LSOG (most current version) WPR is for WLS-WLN porting, LSR is for WLN-WLS.	
WPRR / FOC Version ID	LSOG (most current version)	
Time Zone (PST, MST, CST, EST)	24x7x365	
Business days (Sun, Mon, etc.)	24x7x365	
Business day begin (hh:mm)		
Business day end (hh:mm)		

C	Item	Verizon Wireless	Wireline Carrier B
O	... for Testing ...		
R	Porting Method: Primary,	Current, Test Env = Telcordia	
B	Secondary, N/A	SMG 4.2.0.50 (WICIS 2.x)	
A	ICP Package/Application ("send to")	SMG 4.2: 205.174.188.227	
	ICP Physical Server ("receive from")	SMG 4.2: 205.174.188.229	
	Failover ICP Server	SMG 4.2: 205.174.188.228	
	SOA Application	SMG 4.2: 205.174.188.226	



SOA Server	SMG 4.2: 205.174.188.229	
Failover SOA Server	SMG 4.2: 205.174.188.229	
Application Port Information	Test Env 2 = 26233	
Naming Service / IOR	Static IP (or N/A)	
DLCI (Frame Relay usage)	N/A	
LDAP Provider	N/A	
Security Requirements	N/A	
Firewall Requirements	Allow TCP and UDP traffic	
SSL Requirements	N/A	
Proprietary Requirements	N/A	
Service IDL version	N/A	
Implementation OMG standard compliant?	Yes	
... for Testing OMG CORBA Standards Supported ...		
Verizon Wireless		Wireline Carrier B
Vendor	Borland	Vendor
Verizon Wireless Product Name/Version	CORBA	Wireline Product Name/Version
OMG CORBA Version	Corba IDL 2.1	OMG CORBA Version
IIOP Version		
... for Production ...		
Porting Method: Primary, Secondary, N/A	Current Production = SMG 4.2	
ICP Package/Application ("send to")	SMG 4.2: 205.140.9.27 205.140.9.29	
ICP Physical Server ("receive from")	SMG 4.2: 205.140.9.17 205.140.9.19	
Failover ICP Server	SMG 4.2: 205.140.9.16 205.140.9.18	
SOA Application	SMG 4.2: 205.140.9.26 205.140.9.28	
SOA Server	SMG 4.2: 205.140.9.16 205.140.9.18	
Failover SOA Server	SMG 4.2: 205.140.9.17 205.140.9.19	
Application Port Information	26232 (setup as "2" + SPID)	
Naming Service / IOR	Static IP (or N/A)	
DLCI (Frame Relay usage)	N/A	
LDAP Provider	N/A	
Security Requirements	N/A	
Security Requirements	N/A	

Firewall Requirements	Allow TCP and UDP traffic	
SSL Requirements	N/A	
Proprietary Requirements	N/A	
Service IDL version	N/A	
Implementation OMG standard compliant?	Yes	
... for Production OMG CORBA Standards Supported ...		
Verizon Wireless		Wireline Carrier B
Vendor	Borland	Vendor
Verizon Wireless Product Name/Version	CORBA	Wireline Product Name/Version
OMG CORBA Version	Corba IDL 2.1	OMG CORBA Version

Item	Verizon Wireless	Wireline Carrier B
F A X	... for Testing ...	
	Porting Method: Primary, Secondary, Low Tech Interface, LTI	
	Fax number (machine printed forms)	1-813-209-5983
	Fax number (hand printed forms)	1-813-209-5982
	... for Production ...	
	Porting Method: Primary, Secondary, N/A	
	FAX number (machine printed forms)	1-813-739-6201
	FAX number (hand printed forms)	1-813-739-6202
	NOTE: When responding to one of our port requests, please respond to the "Return Fax Number" checked on the port request.	

Item	Verizon Wireless	Wireline Carrier B
E D I	... for Testing ...	
	Porting Method: Primary, Secondary, Low Tech Interface (LTI)	
	Specific EDI Requirements	N/A
	... for Production ...	
	Porting Method: Primary, Secondary, N/A	
	Specific EDI Requirements	N/A

O T H E R	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements		
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements		

The carriers agree that information contained in this Part A is operational in nature and subject to change.

The carriers agree to make every effort to give the other carrier thirty (30) days' notice of any changes to its information pursuant to the General Contact Information set forth in Part A.

The carriers' contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.

**Part B – General Contact Information and  
Trouble Reporting Contact Information**

**For Verizon Wireless:**

**General Contact Information**

**Wireless-Wireline Porting:**

**Verizon Wireless Porting Center**

Hours of Operation: 24 x 7 x 365 (open all holiday's, no exceptions)  
Address: 300 River Rock Blvd.  
Murfreesboro, TN 37128  
Phone: 1-800-488-2002

**Porting Center Carrier Relations**

Contact: Associate Director of Inter-Carrier Relations  
Phone: 1-800-711-9300  
Fax: 1-615-372-2411  
Hours: 8:00am to 5:00pm (Central Time)  
E-mail: [PortCenterICR@GL.VerizonWireless.com](mailto:PortCenterICR@GL.VerizonWireless.com)

**Pre-Launch (Pre-11/24/03) Inter-Carrier Test Scheduling**

Contact: Wireline Inter-Carrier Test Coordinator  
Phone: 1-248-915-3430  
Fax: 1-248-915-3799  
E-mail: [Marie.Moore@VerizonWireless.com](mailto:Marie.Moore@VerizonWireless.com)

**Post-Launch (Post-11/24/03) Inter-Carrier Test Scheduling**

Contact: Inter-Carrier Relations  
Phone: 1-800-711-9300  
Fax: 1-615-372-2411  
E-mail: [PortCenterICR@GL.VerizonWireless.com](mailto:PortCenterICR@GL.VerizonWireless.com)

**Trouble Reporting Contact Information**

Process: The Verizon Wireless Porting Center is the initial interface for all trouble resolution activity associated with porting numbers. The Porting Center will refer issues to the appropriate internal Network or provisioning group for resolution within Verizon Wireless.

**Trouble Area:**

ICP/General Trouble Reporting

Phone: 1-800-711-9300  
Fax: 1-615-372-2425  
E-mail: VZWLNPGeneral@GL.VerizonWireless.com

Disaster Recovery

Contact: Porting Center Resource Manager  
Phone: 1-800-711-9300  
Fax: 1-615-372-2425  
E-mail: PCLNPTNC@GL.VerizonWireless.com

CORBA:

Contact: TSI Hotline  
Phone: 1-800-892-2888  
Fax: 1-813-273-3164  
E-mail: Hotline@tsiconnections.com; Subject: Customer#: WLNP

**For Wireline Carrier B:**

**General Contact Information**

[contact]

Hours of Operation:

Address:

[contact]

Phone:

Fax:

**Trouble Reporting Contact Information**

**Trouble Area:**

ICP/General Trouble Reporting

Phone:

Fax:

E-mail:

Disaster Recovery

Contact:

Phone:

Fax:

E-mail:

CORBA:

Contact:

Phone:

Fax:

E-mail:

Note: Each carrier shall make available a Porting Administration Group or Trouble Reporting contact on a 24x7x365 basis.

The Trouble Reporting Contacts may be amended from time to time by a carrier upon providing thirty (30) days' written notice to the other at the General Contact Information set forth in this Part A.

The carriers' contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.

## Part C – Trouble Ticket Detail

### For Verizon Wireless:

#### Information Required For Logging Trouble Tickets\*

The following may be required for trouble reports:

- Carrier Name;
- Reporting Carrier organization;
- SPID and associated OCN(s);
- Point of Contact Name;
- Point of Contact Number;
- Porting Telephone Number/MDN;
- LRN;
- Time and Date of Port;
- Associated Error Codes;
- Description of Problem; and
- Other relevant data.

### For Wireline Carrier B:

#### Information Required For Logging Trouble Tickets\*

The following is proposed information for trouble reports:

- Carrier Name;
- Reporting Carrier organization;
- SPID and associated OCN(s);
- Point of Contact Name;
- Point of Contact Number;
- Porting Telephone Number/MDN;
- LRN;
- Time and Date of Port;
- Associated Error Codes;
- Description of Problem; and
- Other relevant data.

\*Each carrier shall make available a Porting Administration Group or Trouble Reporting contact on a 24x7x365 basis.

The carriers contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.

## Part D – Porting Validation Standards

### For Verizon Wireless:

#### Information Required For Post-Paid Port Validation:

1. Billing Last Name
2. Business Name if no information for Billing Name
3. Five Digit Zip Code
4. SSN/Tax ID Number
5. Account Number if no SSN or Tax ID
6. Porting Telephone Number

#### Information Required for Pre-Paid Port Validation:

1. Porting Telephone Number
2. Password/PIN

### For Wireline Carrier B:

#### Information Required For Post-Paid Port Validation:

#### Information Required for Pre-Paid Port Validation:

Note: Other than those mandatory data items set forth in Section 3.3.1 of the WICIS, the above shall be the only information which may be utilized by a carrier to this Trading Partner Profile to validate a port request for post-paid numbers. "Delay" or "denial" of ports between the carriers shall occur only in the event a carrier is unable to complete the validation of those validation elements expressly set forth above. Once validated, the Carriers shall be obligated to complete the porting transaction. Any variations or proposed changes in the agreed data fields noted above shall be communicated to the other carrier at the information provided in Part B.



## Part E – Affiliate Lists

### For Verizon Wireless:

Allentown SMSA Limited Partnership d/b/a Verizon Wireless  
By Bell Atlantic Mobile Systems of Allentown, Inc., Its General Partner

Anderson CellTelCo d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Athens Cellular, Inc. d/b/a Verizon Wireless

Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Bell Atlantic Mobile of Asheville, Inc. d/b/a Verizon Wireless

Bell Atlantic Mobile of Rochester, LP d/b/a Verizon Wireless  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

Binghamton MSA Limited Partnership d/b/a Verizon Wireless  
By NYNEX Mobile of New York Limited Partnership, Its General Partner  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

Bismarck MSA Limited Partnership d/b/a Verizon Wireless  
By Cellular Inc. Network Corporation, Its General Partner

Boise City MSA Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

California RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
By Pinnacles Cellular, Inc., Its General Partner

Cellco Partnership d/b/a Verizon Wireless

Cellular Inc. Network Corporation d/b/a Verizon Wireless

Chicago 10 MHz LLC d/b/a Verizon Wireless  
By Cellco Partnership, Its Sole Member

Chicago SMSA LP d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Colorado 7 – Saguache Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

CommNet Cellular License Holding LLC d/b/a Verizon Wireless  
By Cellular Inc. Financial Corporation, Its Sole Member

CyberTel Cellular Telephone Company d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Dallas MTA, LP d/b/a Verizon Wireless  
By Verizon Wireless Texas, LLC, Its General Partner

Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Des Moines MSA General Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

Dubuque MSA Limited Partnership d/b/a Verizon Wireless  
By Southwestco Wireless, LP, Its General Partner  
By Southwestco Wireless, Inc., Its General Partner

Duluth MSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Minnesota, LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless  
 Fayetteville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Fresno MSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Gadsden CellTelCo Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Gila River Cellular General Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its Managing General Partner

Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Grays Harbor-Mason Cellular Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

GTE Mobilnet of Florence, Alabama Incorporated d/b/a Verizon Wireless

GTE Mobilnet of Fort Wayne Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #6 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Santa Barbara Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Terre Haute Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Texas RSA #17 Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Texas RSA #21 Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of the Southwest LLC d/b/a Verizon Wireless  
 By Cellco Partnership, Its Sole Member

GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless

Hamilton Cellular Telephone Company d/b/a Verizon Wireless  
 By New Par, Its General Partner  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho 6 – Clark Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Idaho RSA No. 1 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Illinois RSA 1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Illinois RSA 6 and 7 Limited Partnership d/b/a Verizon Wireless  
 By Illinois SMSA Limited Partnership, Its General Partner  
 By Cellco Partnership, Its General Partner

Illinois SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Indiana RSA #1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Indiana RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Iowa 8 – Monona Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

Iowa RSA 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Iowa RSA 10 General Partnership  
 By Cellco Partnership d/b/a Verizon Wireless, Its Manager

Iowa RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Missouri Valley Cellular, Inc. d/b/a Verizon Wireless  
 By CommNet Cellular, Inc., Its Managing Agent

Modoc RSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Muskegon Cellular Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

NC-2 LLC d/b/a Verizon Wireless

New Hampshire RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

New Mexico RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, its Sole Member

New Mexico RSA 6-I Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Mexico RSA No. 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Par d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York RSA No. 3 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
 By AirTouch North Dakota, LLC, Its General Partner

Northeast Pennsylvania SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Northern New Mexico Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile of New York, LP d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

Olympia Cellular Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Omaha Cellular Telephone Company d/b/a Verizon Wireless  
 By AirTouch Nebraska, LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless of the East LP, Its General Partner  
 By Verizon Wireless of Georgia LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

Oxnard-Ventura-Simi Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Pennsylvania 3 Sector 2 Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania 4 Sector 2 Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania RSA 1 Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania RSA No. 6 (I) Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania RSA No. 6 (II) Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pittsburgh SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pittsfield Cellular Telephone Company d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Platte River Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Portland Cellular Partnership d/b/a Verizon Wireless  
     By Celco Partnership, Its General Partner  
 Pueblo Cellular, Inc. d/b/a Verizon Wireless  
 Redding MSA Limited Partnership d/b/a Verizon Wireless  
     By Sacramento Valley Limited Partnership, Its General Partner  
     By AirTouch Cellular, Its General Partner  
 Rockford MSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 RSA 7 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Iowa RSA 7, LLC, Its Managing Partner  
     By Celco Partnership, Its Sole Member  
 Sacramento Valley Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 San Antonio MTA, L.P. d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 San Isabel Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Sanborn Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Sangre De Cristo Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Seattle SMSA Limited Partnership d/b/a Verizon Wireless  
     By Celco Partnership, Its General Partner  
 Sioux City MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Smoky Hill Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Southern & Central Wireless, LLC d/b/a Verizon Wireless  
     By Celco Partnership, Its Sole Member  
 Southern Indiana RSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Southwestco Wireless LP d/b/a Verizon Wireless  
     By Southwestco Wireless Inc., Its Managing Partner  
 Spokane MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Springfield Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Joseph CellTelCo d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Celco Partnership, Its General Partner  
 Syracuse SMSA Limited Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Celco Partnership, Its General Partner  
 The Great Salt Flats Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
     By Celco Partnership, Its Sole Member  
 Topeka Cellular Telephone Company, Inc. d/b/a Verizon Wireless



02/24/2004 11:14 FAX 94195365220 VZW - LNPPRINT04 @002/009

## Porting Questionnaire with Verizon Wireless

Carrier Name:

Completed by:

Date:

1. Name of point of contact (within your company)
  - a. Phone number
  - b. Fax number
  - c. E mail address
2. Name of back up or secondary contact (within your company)
  - a. Phone number
  - b. Fax number
  - c. E mail address
3. Hours of operation
4. Observed holidays
5. Mailing address
6. Please provide the SPID(s) associated with you company.
7. Is your company associated with or a subsidiary of any other companies? If so, which companies and SPIDS
8. How should Verizon Wireless submit a port request or LSR to your company?  
Fax? Email?
9. What is your turnaround for port requests (3,4 or 5 days)?

10. If fax, does the company utilize TSI?

- a. If not, please provide the fax number
- b. If multiple SPID's are involved, do the requests go to the same fax or different numbers?
- c. If multiple fax numbers, please provide a list with SPID and corresponding fax number.
- d. Are different areas (or regions) covered by different SPIDs (i.e. Northeast US covered by SPID 1234, Southeast US covered by SPID 5678, etc)?

11. If E Mail, please provide e-mail address(es).

- a. If multiple SPID's are involved, do the requests go to the same e-mail address or different addresses?
- b. If multiple addresses, please provide a list with SPID and corresponding e-mail addresses.
- c. Are different areas (or regions) covered by different SPIDs (i.e. Northeast US covered by SPID 1234, Southeast US covered by SPID 5678, etc)?

12. If requests are to be sent by any other method, please provide instructions in detail.

13. What LSOG (LSR) version does the company use?

14. Does the company have a template of the LSR, EUI and NP forms showing your required fields and format?

- a. If yes, can the company provide a copy?
- b. If not, can someone go thru a form, line by line, with us to verify properly prepared forms are submitted?

15. Does your company resell numbers to other carriers (type one)?

- a. If yes:



What companies?

What are their SPIDs?

Any specific NPA-NXX?

Do you have any contact information for these companies?

- b. Does your company or has your company purchased numbers from other carriers?

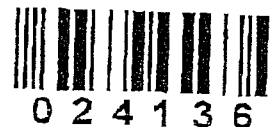
16. Is the company willing to test with Verizon Wireless?

Any additional comments:

Please return completed form and any attachments to me via fax at 615-372-2382 or via e-mail at Nilda.Penn@verizonwireless.com

LSOG 6 - Revised 6/14/03

# Number Portability Service Request



## Administrative Section

PON  VER  ATN  PG  OF

## Service Detail Section

LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>
LNUM	<input type="text"/>	LNA	<input type="text"/>	PORTED NBR	<input type="text"/>
NPT	<input type="text"/>	RTI	<input type="text"/>	NPTG	<input type="text"/>

LSOG 6 - Revised 6/14/03

Local Service  
Request (LSR)

041133

**Administrative Section**

PON

VER

LSR NO

ATN

SC

PG

OF

D/TSENT

DDD

APPTIME

DDDO

NOR

DEDT

DEDT0

PROJECT

CHC

REQTYP

ACT

SUP

EXP

EXP RSN

RTR

CC

RVER

NNSP

ONSP

ALBR

AGAUTH

ACTL

SACTL

LST

TOS

SPEC

NC

NCI

SECNCI

RPON

RORD

NENA/ECC

NPDI

SLI

QRYNER

SCD

AFA

ACCOUNT FEATURE

ACCOUNT FEATURE DETAIL

AFA

ACCOUNT FEATURE

ACCOUNT FEATURE DETAIL

AFA

ACCOUNT FEATURE

ACCOUNT FEATURE DETAIL

AFA

ACCOUNT FEATURE

ACCOUNT FEATURE DETAIL

AFA

ACCOUNT FEATURE

ACCOUNT FEATURE DETAIL

AFA

ACCOUNT FEATURE

ACCOUNT FEATURE DETAIL

Local Service  
Request (LSR)

0 4 1 2 3 2

**Administrative Section**PON VER ATN PG OF **Bill Section**BAN1 BAN2 EBP VTA **Contact Section**INIT TELNO FAX NO IMPCON TELNO (IMPCON) DSGCON DRC TELNO (DSGCON) FAX NO (DSGCON) ATR **Remarks**



LSOG 6 - Revised 6/14/03

End User  
Service Request**Administrative Section**PON  VER  ATN  PG  OF **Location and Access Section**LOCNUM NAME  NCON  AFT SAPR  SANO  SASF  SASD SASN SATH  SASS  LD1  LV1 LD2  LV2  LD3  LV3 AAI CITY STATE  ZIP CODE LCON  TELNO ACC WSOP  CPE MFR CPE MOD  ELT  B **Bill Section**EATN

Exhibit R-4-TB

[illegible]



[illegible]

[illegible]

**Faith Municipal Telephone Company**

## Timeline for Implementation of Local Number Portability

Month:  
Week:

1				2				3				4				5				6			
1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4

Upgrade switch software (1 Mitel)

(16 to 18 weeks, depending on vendor schedule)

Update switch routing translation tables

(1 day per switch, depending on vendor schedule)

Assign LRN to switches

(4 to 6 weeks to appear in LERG)

Sign service agreements with:

NPAC

(1 month)

SOA

(1 month)

Query Service Provider

(1 month)

Test SOA process

(1 week, after SOA agreement signed)

Test SS7 queries

(1 week, after Query agreement signed and switch upgraded)

Negotiate Service Level Agreements & Trading

Partner Profiles with other carriers

(7 weeks)

Train staff & develop internal business procedures

(6 to 8 weeks, concurrent with other activity)

Modify billing system

(4 weeks)

Install trunks to new provider's POI

(8 to 10 weeks)

Test entire process

(2 to 3 weeks, after all other steps completed)

[illegible]

Sioux Valley Telephone Company																									
Timeline for Implementation of Local Number Portability																									
		Month:																							
		Week:																							
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Upgrade switch software (2 Siemens)	(1 to 2 months, depending on vendor schedule)																								
Update switch routing translation tables	(1 day per switch, depending on vendor schedule)																								
Assign LRN to switches	(4 to 6 weeks to appear in LERG)																								
Sign service agreements with:																									
NPAC	(1 month)																								
SOA	(1 month)																								
Query Service Provider	(1 month)																								
Test SOA process	(1 week, after SOA agreement signed)																								
Test SS7 queries	(1 week, after Query agreement signed and switch upgraded)																								
Negotiate Service Level Agreements & Trading Partner Profiles with other carriers	(7 weeks)																								
Train staff & develop internal business procedures	(6 to 8 weeks, concurrent with other activity)																								
Modify billing system	(4 weeks)																								
Install trunks to new provider's POI	(8 to 10 weeks)																								
Test entire process	(2 to 3 weeks, after all other steps completed)																								

Valley Telecommunications Cooperative Association, Inc.		Timeline for Implementation of Local Number Portability																			
		1				2				3				4				5			
Month:	Week:	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Upgrade switch software (1 Nortel)																					
(1 to 2 months, depending on vendor schedule)																					
Update switch routing translation tables																					
(1 day per switch, depending on vendor schedule)																					
Assign LRN to switches																					
(4 to 6 weeks to appear in LERG)																					
Sign service agreements with:																					
NPAC																					
(1 month)																					
SOA																					
(1 month)																					
Query Service Provider																					
(1 month)																					
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Test SS7 queries																					
(1 week, after Query agreement signed and switch upgraded)																					
Negotiate Service Level Agreements & Trading Partner Profiles with other carriers																					
(7 weeks)																					
Train staff & develop internal business procedures																					
(6 to 8 weeks, concurrent with other activity)																					
Modify billing system																					
(4 weeks)																					
Install trunks to new provider's POI																					
(8 to 10 weeks)																					
Test entire process																					
(2 to 3 weeks, after all other steps completed)																					

**Alliance Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 3**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 94,308
Internal Business Procedure Changes	\$ 21,344
Inter-carrier Testing	\$ 2,350
Other Internal Costs	\$ 33,532
LNP Query set up	\$ 1,520
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 4,301
Total Non-recurring Costs excluding transport	\$ 158,355

Non recurring transport charges	\$ 11,789
---------------------------------	-----------

Total Non-recurring Costs including transport	\$ 170,144
---	------------

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 1,200
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 2,068
Total Recurring Monthly Costs excluding Transport	\$ 3,668

Transport	\$ 15,502
-----------	-----------

Total Recurring Monthly Costs including Transport	\$ 19,170
---	-----------

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 3,463
Total Nonrecurring cost per month including transport amortized over five years	\$ 3,721

Total cost per month excluding transport	\$ 7,131
--	----------

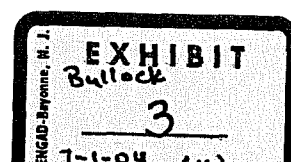
Total cost per month including transport	\$ 22,891
--	-----------

Access Lines excluding Lifeline	9,820
---------------------------------	-------

LNP cost per line per month excluding transport

LNP cost per line per month including transport

\$ 0.73	\$ 0.84
\$ 2.33	\$ 2.68



**Golden West GWVK Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 3**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 145,757
Internal Business Procedure Changes	\$ 40,146
Intercarrier Testing	\$ 4,754
Other Internal Costs	\$ 25,109
LNP Query set up	\$ 2,090
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 14,612
Total Non-recurring Costs excluding transport	<u>\$ 233,468</u>

Non recurring transport charges	\$ 22,408
---------------------------------	-----------

Total Non-recurring Costs including transport	<u>\$ 255,876</u>
---	-------------------

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 1,650
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 3,350
Total Recurring Monthly Costs excluding Transport	<u>\$ 5,400</u>

Transport	\$ 51,429
-----------	-----------

Total Recurring Monthly Costs including Transport	<u>\$ 56,829</u>
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 5,105
Total Nonrecurring cost per month including transport amortized over five years	\$ 5,595

Total cost per month excluding transport	\$ 10,505
--	-----------

Total cost per month including transport	\$ 62,424
--	-----------

Access Lines excluding Lifeline	32,680
---------------------------------	--------

LNP cost per line per month excluding transport

LNP cost per line per month including transport

\$ 0.32	\$ 0.37
\$ 1.91	\$ 2.20



**Valley Telecommunications Cooperative Association, Inc.**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 3**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$	21,216
Internal Business Procedure Changes	\$	15,455
Inter-carrier Testing	\$	3,216
Other Internal Costs	\$	27,788
LNP Query set up	\$	190
SOA Non-recurring set up charge	\$	-
Customer Notification Costs	\$	1,978
Total Non-recurring Costs excluding transport	\$	69,844

Non recurring transport charges	\$	2,101
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Total Non-recurring Costs including transport	\$	71,945
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$	225
LNP Query Costs per month	\$	150
Switch Maintenance Costs per month	\$	-
Other Monthly Costs	\$	422
Total Recurring Monthly Costs excluding Transport	\$	797

Transport	\$	9,637
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Total Recurring Monthly Costs including Transport	\$	10,434
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$	1,527
Total Nonrecurring cost per month including transport amortized over five years	\$	1,573

Total cost per month excluding transport	\$	2,324
Total cost per month including transport	\$	12,008

Access Lines excluding Lifeline		3,461
---------------------------------	--	-------

LNP cost per line per month excluding transport	\$	0.67	\$	0.75
LNP cost per line per month including transport	\$	3.47	\$	3.89

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

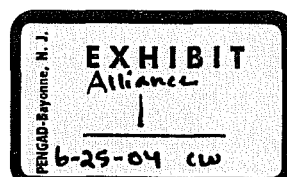
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IN THE MATTER OF THE PETITION  
OF ALLIANCE COMMUNICATIONS  
COOPERATIVE, INC. AND SPLITROCK  
PROPERTIES, INC. FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-055

**DIRECT PRE-FILED TESTIMONY OF  
DON SNYDERS**

**May 14, 2004**



**Q: Please state your business name and address?**

A: My name is Don Snyders, General Manager of Alliance Communications Cooperative, Inc. and Splitrock Properties, Inc. My business address is 612 3<sup>rd</sup>, PO Box 349, Garretson, SD 57030. My business phone number is 605-594-3411.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Alliance Communications Cooperative, Inc. (Alliance) and its wholly owned subsidiary company of Splitrock Properties, Inc. (Splitrock). Alliance and Splitrock are rural independent local exchange carriers that provide local exchange, exchange access and other telecommunications services to 9851 access lines within its South Dakota service area, which include the exchanges of Garretson, Brandon, Baltic, Crooks, Alcester, Hudson, Howard and Oldham/Ramona.

Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?

A: No.

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

A: Wireless service areas are much more extensive.

**Q: What is the current method of routing calls from your subscriber's landline phones to wireless phone numbers?**

A: Alliance and Splitrock have points of interconnection (POI) with SDN and Quest. The SDN connection is for toll completion and toll termination for InterLATA and

Intra LATA traffic. The Qwest POI is a terminating trunk, only for Qwest IntraLATA traffic.

**Q: Have any subscribers requested local number portability (LNP) from your company?**

A: There have been no subscriber requests for local number portability to be offered by Alliance Communications and/or Splitrock Properties.

**Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever requested LNP from your company?**

A: No.

**Q: Have any wireless carriers requested LNP?**

A: Yes, from Western Wireless, Verizon, and Midwest Wireless.

**Q: How much time would be required for your company to provide LNP, if ordered by the Commission?**

A: We have not completed a specific implementation time line yet, but implementation will take a considerable amount of time.

**Q: In your experience as the general manager of Alliance and Splitrock, have you seen increases or additions to the itemized fees on your customer's telephone bills?**

A: Yes.

**Q: What do you expect your customer's reaction to be to any new LNP fees on their bills?**

A: I would expect the reaction to be very negative.

**Q: Is the public interest, convenience, and necessity served by requiring your company to implement LNP at this time?**

A, No. The current demand for LNP appears to be non-existent, as no customers have requested LNP and the cost of LNP is significant.

**Q: Does this conclude your direct testimony?**

A: Yes.

BEFORE THE PUBLIC UTILITIES COMMISSION

**RECEIVED**

OF THE STATE OF SOUTH DAKOTA

JUN 15 2004

IN THE MATTER OF THE PETITION  
OF ALLIANCE COMMUNICATIONS  
COOPERATIVE, INC. AND SPLITROCK  
PROPERTIES, INC. FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-055

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

REBUTTAL TESTIMONY

OF DON SNYDERS

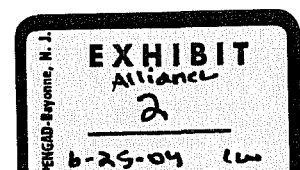
**REBUTTAL TESTIMONY OF**

**DON SNYDERS**

**ON BEHALF OF**

**ALLIANCE COMMUNICATIONS COOPERATIVE, INC.  
AND SPLITROCK PROPERTIES, INC.**

**June 14, 2004**



1 Q. Please state your name, business name and address.

2 A. My name is Don Snyders. I am the General Manager of Alliance Communications  
3 Cooperative, Inc. and Splitrock Properties, Inc. (collectively "Alliance"), whose ad-  
4 dress is 612 Third Street, Garretson, South Dakota 57030.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Alli-  
15 ance took immediate steps to investigate the cost and the processes involved with  
16 LNP and to explore its legal options. Because Alliance had no experience with LNP,  
17 it took time to gather the pertinent information and to make the decision to seek a  
18 suspension of the requirement from the Commission. Further, the suspension peti-  
19 tion itself took time and effort to prepare because Alliance wanted to present as  
20 complete a petition as possible, accompanied by cost information as complete as  
21 possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
24 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
25 cal calls?"

1     **A.**     In its answer to Interrogatory 4., Western Wireless identifies the “serving tandem”  
2             as the Qwest LATA or local tandem, which is outside of Alliance’s service territory.  
3             (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal Tes-  
4             timony of Steven E. Watkins). Therefore, Mr. Williams’ statement is not consistent  
5             with the interconnection agreement signed by Alliance and Western Wireless. Pur-  
6             suant to that agreement, Alliance did not agree to route traffic destined for Western  
7             Wireless to the serving tandem. Rather, traffic terminating to Western Wireless is  
8             routed to an interexchange carrier. Therefore, it appears that Western Wireless’  
9             argument really is a bad faith attempt to change the agreement between the parties.

10    **Q.**     At page 19, lines 8-10, Mr. Williams states that it is his belief that “the FCC views that it  
11             is the originating carrier’s responsibility to deliver local traffic for termination and that  
12             the costs associated with fulfilling that responsibility are not a number portability cost.”  
13             What is your response to this statement?

14    **A.**     Mr. Williams’ statements are inconsistent and should be rejected. First he argues  
15             that Alliance should be required to install new facilities to deliver ported calls to  
16             Western Wireless and then he argues that the cost of those facilities are not number  
17             portability costs. Further, as discussed at lines 1-10 above, Mr. Williams’ suggestion  
18             that it is Alliance’s responsibility to deliver traffic destined to Western Wireless  
19             through a serving tandem is not consistent with the interconnection agreement be-  
20             tween Alliance and Western Wireless.

21    **Q.**     At page 20, lines 13-16, Mr. Williams states that “[t]he routing methods proposed by the  
22             Petitioners are inefficient in that they make little or no utilization of existing equipment  
23             and shared facilities currently used to exchange calls with other carriers.” How do you  
24             respond?



1 A. The routing methods reflected in the cost exhibit attached to Alliance's Petition are  
2 based on the current routing arrangements that Alliance has in place with other  
3 carriers, namely, calls that are dialed on a local 7-digit basis are routed via direct  
4 connections. Therefore, if calls to numbers ported to a carrier are to be dialed on a  
5 local 7-digit basis, a direct connection needs to be established between the carriers.

6 Q. Would Western Wireless' routing proposal have impacts to Alliance beyond LNP?

7 A. Yes. It is my understanding that Western Wireless' proposal would increase Alli-  
8 ance's costs. First, Western Wireless' proposal would require Alliance to pay for  
9 new facilities to the tandem provider that it does not need for any purpose other  
10 than to route calls to ported numbers to wireless carriers. Second, Alliance would  
11 most likely have to pay transit traffic charges to the tandem provider for transport-  
12 ing the traffic to the wireless carriers. Third, in response to Interrogatory 16.b.,  
13 Western Wireless indicates that Alliance would be required to pay reciprocal com-  
14 pensation on calls to ported numbers, even if Alliance does not pay compensation on  
15 such calls today. (See Western Wireless Response to Interrogatory 16.b. attached to  
16 the Rebuttal Testimony of Steven E. Watkins.)

17 Q. Is there any other impact?

18 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
19 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
20 wireless carriers are routed to interexchange carriers. For example, if Alliance Cus-  
21 tomer A calls Western Wireless Customer B, Alliance Customer A incurs a toll  
22 charge. However, under Western Wireless' proposal, it is my understanding that if  
23 Alliance Customer A calls Western Wireless Customer B, who now has a number  
24 ported from Alliance, Alliance Customer A would be charged for a local call. Cus-  
25 tomers may be encouraged to "give up" their existing wireless numbers and obtain

1        **wireline numbers for the sole purpose of porting that number to avoid toll charges.**  
2        **This is not only a bad public policy result, but also simply a bad faith attempt to**  
3        **avoid an important contract provision upon which Western Wireless has already**  
4        **agreed with our company.**

5    Q.    Does this conclude your rebuttal testimony?

6    A.    Yes.

CERTIFICATE OF SERVICE

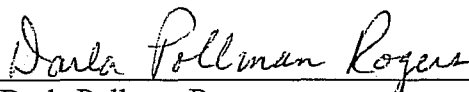
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

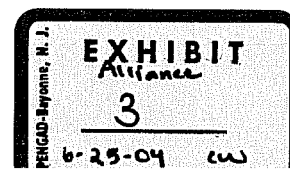
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IN THE MATTER OF THE PETITION  
OF ALLIANCE COMMUNICATIONS  
COOP., INC. AND SPLITROCK PROP-  
ERTIES, INC. FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-055

**DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF ALLIANCE COMMUNICATIONS COOP., INC.  
AND SPLITROCK PROPERTIES, INC.  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF ALLIANCE COMMUNICATIONS COOP., INC.  
AND SPLITROCK PROPERTIES, INC.  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Tom Bullock. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508. My telephone number is (402) 441-4315.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "introductory" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to**

**develop the cost as shown on Exhibit 2. Please discuss where in your “introductory” testimony you describe this process.**

- A. The process that was used to compile and develop the cost per line in Exhibit 2 is described on pages six through twenty-one in my “introductory” testimony.

**Q6. What was the source of the data?**

- A. The data was derived from the books, financial records and managers of the RLEC. Data was also obtained from switch vendors, engineering consultants, tariffs, service order administration service bureaus, the number portability administration center, a number portability database provider, and my professional experience.

**Q7. What was the purpose of obtaining that particular data?**

- A. To assist me in preparing an estimate of the costs to implement LNP for the RLEC.

**Q8. Is this the type of data that experts in your field would ordinarily review in formulating an opinion concerning the costs of LNP?**

- A. Yes.

**Q9. What use did you make of the data after you received it from the RLEC?**

- A. I have explained the use of the data on pages eleven through twenty-one of my “introductory” testimony.

**Q10. Have you reached an opinion with a reasonable degree of professional certainty as to the total non-recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC that will be recovered over a 5-year recovery period through an end user surcharge?**

A. Yes. My opinion is that the total non-recurring costs, excluding transport, is \$186,895. Such costs were amortized over a recovery period of 60 months using a rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$4,087.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$3,668 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. The resulting cost per line per month was calculated to be \$0.91.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$23,515 per month. The resulting LNP cost per line, per month, including transport, was calculated to be \$2.75.

**Q14. If FCC determines that transport costs should not be included in the end-user surcharge, will the transport cost still be incurred and who will pay these costs?**

A. Transport costs will have to be incurred to transport calls outside of the RLEC's service area. If the cost is not recovered through an end-user surcharge, and if these costs are not recovered from the wireless carrier, then the only party to pay these costs would be the RLEC.

**Q15. Is it your opinion that the calculations that you have just described fairly and reasonably describe the non-recurring and recurring costs for the RLEC to implement LNP and the end user charges to recover such costs?**

A. Yes.

**Q16. Does this conclude your testimony?**

A. Yes, it does.



**Alliance Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 122,848
Internal Business Procedure Changes	\$ 21,344
Inter-carrier Testing	\$ 2,350
Other Internal Costs	\$ 33,532
LNP Query set up	\$ 1,520
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 4,301
Total Non-recurring Costs excluding transport	\$ 186,895

Non recurring transport charges \$ 11,789

Total Non-recurring Costs including transport \$ 198,684

**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 1,200
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 2,068
Total Recurring Monthly Costs excluding Transport	\$ 3,668

Transport \$ 15,502

Total Recurring Monthly Costs including Transport \$ 19,170

**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 4,087
Total Nonrecurring cost per month including transport amortized over five years	\$ 4,345

Total cost per month excluding transport \$ 7,755

Total cost per month including transport \$ 23,515

Access Lines excluding Lifeline 9,820

LNP cost per line per month excluding transport

LNP cost per line per month including transport

\$ 0.79	\$ 0.91
\$ 2.39	\$ 2.75

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF MCCOOK COOPERATIVE TELE-  
PHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-049

**DIRECT TESTIMONY OF TOM BULLOCK ON BEHALF OF  
MCCOOK COOPERATIVE TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF TOM BULLOCK ON BEHALF OF  
MCCOOK COOPERATIVE TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Tom Bullock. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508. My telephone number is (402) 441-4315.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "introductory" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to develop the cost as shown on Exhibit 2. Please discuss where in your "introductory" testimony you describe this process.**

A. The process that was used to compile and develop the cost per line in Exhibit 2 is described on pages six through twenty-one in my "introductory" testimony.

**Q6. What was the source of the data?**

A. The data was derived from the books, financial records and managers of the RLEC. Data was also obtained from switch vendors, engineering consultants, tariffs, service order administration service bureaus, the number portability administration center, a number portability database provider, and my professional experience.

**Q7. What was the purpose of obtaining that particular data?**

A. To assist me in preparing an estimate of the costs to implement LNP for the RLEC.

**Q8. Is this the type of data that experts in your field would ordinarily review in formulating an opinion concerning the costs of LNP?**

A. Yes.

**Q9. What use did you make of the data after you received it from the RLEC?**

A. I have explained the use of the data on pages eleven through twenty-one of my "introductory" testimony.

**Q10. Have you reached an opinion with a reasonable degree of professional certainty as to the total non-recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC that will be recovered over a 5-year recovery period through an end user surcharge?**

A. Yes. My opinion is that the total non-recurring costs, excluding transport, is \$88,103. Such costs were amortized over a recovery period of 60 months using a

rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$1,927.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$1,502 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. The resulting cost per line per month was calculated to be \$1.91.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$15,016 per month. The re-

sulting LNP cost per line, per month, including transport, was calculated to be \$8.38.

**Q14. If FCC determines that transport costs should not be included in the end-user surcharge, will the transport cost still be incurred and who will pay these costs?**

A. Transport costs will have to be incurred to transport calls outside of the RLEC's service area. If the cost is not recovered through an end-user surcharge, and if these costs are not recovered from the wireless carrier, then the only party to pay these costs would be the RLEC.

**Q15. Is it your opinion that the calculations that you have just described fairly and reasonably describe the non-recurring and recurring costs for the RLEC to implement LNP and the end user charges to recover such costs?**

A. Yes.

**Q16. Does this conclude your testimony?**

A. Yes, it does.

**McCook Cooperative Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 26,400
Internal Business Procedure Changes	\$ 15,625
Intercarrier Testing	\$ 2,212
Other Internal Costs	\$ 41,316
LNP Query set up	\$ 1,140
SOA Non-recurring set up charge	\$ -
Customer Notification Costs	\$ 1,410
Total Non-recurring Costs excluding transport	\$ 88,103

Non recurring transport charges	\$ 8,310
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Total Non-recurring Costs including transport	\$ 96,413
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 180
LNP Query Costs per month	\$ 900
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 422
Total Recurring Monthly Costs excluding Transport	\$ 1,502

Transport	\$ 11,405
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Total Recurring Monthly Costs including Transport	\$ 12,907
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,927
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,108

Total cost per month excluding transport	\$ 3,429
Total cost per month including transport	\$ 15,016

Access Lines excluding Lifeline	2,061
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LNP cost per line per month excluding transport	\$ 1.66	\$ 1.91
LNP cost per line per month including transport	\$ 7.29	\$ 8.38

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

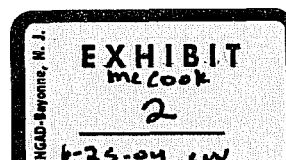
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IN THE MATTER OF THE PETITION  
OF McCOOK COOPERATIVE TELE-  
PHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-049

**DIRECT PRE-FILED TESTIMONY OF  
BRYAN ROTH**

May 14, 2004





1   **Q: Please state your business name and address?**

2   A: I am Bryan K. Roth, McCook Cooperative Telephone Company, 330 South  
3       Nebraska, Salem, SD 57058

4   **Q: By whom are you employed and in what capacity?**

5   A: I am employed by McCook Cooperative Telephone Company (McCook) as their  
6       General Manager. McCook is a rural independent local exchange carrier that  
7       provides local exchange services and support to our telecommunication customers.  
8       Our local exchange customers number approximately 2131, with approximately 90  
9       of those being lifeline customers in our six exchanges of Alexandria, Canova,  
10      Center, Salem, Spencer and Winfred, all of which are in the state of South Dakota.

11

12   **Q: Does your company have any direct points of interconnection with any**  
13      **wireless carrier and/or does your company provide any blocks of numbers for**  
14      **your company's rate centers to any wireless carrier?**

15   A: Yes, we have a direct point of interconnection with a Wireless carrier. No, we do  
16      not provide any blocks of numbers to any carrier(s).

17   **Q: How do the local calling areas of your exchanges compare with those of the**  
18      **wireless carriers operating in your area?**

19   A: Wireless service areas are much more extensive.

20   **Q: Does your company provide any Extended Area Service (EAS) plans to its**  
21      **subscribers or to a connecting carrier's subscribers?**

22   A: Yes, McCook provides EAS between the exchanges of Canova, Center, Spencer  
23      and Winfred. We also have EAS between our exchanges of Salem/Center and

1 Salem/Spencer. EAS is also available between Canova/Howard and  
2 Winfred/Madison

3 **Q: What is the current method of routing calls from your subscriber's landline**  
4 **phones to wireless phone numbers?**

5 A: Depending on which wireless carrier the call is routed to, the call is treated as a toll  
6 call. Our subscriber will be billed a toll charge by the Inter-exchange carrier of  
7 their choice which terminated the call to the wireless carrier. Landline calls from  
8 our exchanges of Center, Salem and Spencer to a 605-421 Verizon Wireless  
9 customer are treated as a local call and routed thru the established direct  
10 interconnection trunks to Verizon Wireless.

11 **Q: Have any subscribers requested local number portability (LNP) from your**  
12 **company?**

13 A: No.

14 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
15 **requested LNP from your company?**

16 A: No.

17 **Q: Have any wireless carriers requested LNP?**

18 A: Yes.

19 **Q. How much time would be required for your company to provide LNP, if**  
20 **ordered by the Commission?**

21 A We have not completed a specific implementation time line yet, but implementation  
22 will take a considerable amount of time.

23

1    **Q:    In your experience as the general manager of McCook have you seen increases**  
2       **or additions to the itemized fees on your customer's telephone bills?**

3    A.    Yes

4    **Q:    What do you expect your customer's reaction to be to any new LNP fees on**  
5       **their bills?**

6    A.    I would expect the reaction to be very negative.

7    **Q:    Is the public interest, convenience, and necessity served by requiring your**  
8       **company to implement LNP at this time?**

9    A,    No, since we have not received a customer request for LNP

10   **Q:    Does this conclude your direct testimony?**

11   A:    Yes

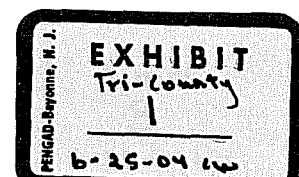
BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF TRI-COUNTY TELCOM, INC., FOR  
SUSPENSION OR MODIFICATION OF  
§251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-084

DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF TRI-COUNTY REGARDING  
COMPANY-SPECIFIC COST DATA

May 14, 2004



1                   **DIRECT TESTIMONY OF TOM BULLOCK**  
2                   **REGARDING COMPANY-SPECIFIC COST DATA**  
3

4   **Q1. Please State your name, Employer, Business Address and Telephone Num-**  
5   **ber.**

6  
7   A. My name is Tom Bullock. I am employed with TELEC Consulting Resources  
8   Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
9   68508. My telephone number is (402) 441-4315.

10 **Q2. On whose behalf are you testifying?**  
11

12 A. I am testifying on behalf of the Company identified in the caption of the docket  
13 set out above. I will refer to this Company as the "RLEC".

14 **Q3. Have you provided your background information and an explanation of your**  
15 **role in this Docket in the "companion" testimony that has been offered in this**  
16 **Docket?**

17 A. Yes, I have.

18 **Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

19 A. Yes, in conjunction with members of the professional staff of TELEC, I was re-  
20 sponsible for the preparation of Exhibit 1 as was attached to the Petition and I was  
21 also responsible for the preparation of supporting information prepared in connec-  
22 tion with the responses to the discovery requests of Western Wireless. I was also  
23 responsible for the preparation of Exhibit 2 that is attached to this testimony.

24 **Q5. In your "introductory" testimony you have explained the line items that**  
25 **comprise Exhibit 2 and the process used to compile the data that was used to**  
26 **develop the cost as shown on Exhibit 2. Please discuss where in your "intro-**  
27 **ductory" testimony you describe this process.**

1 A. The process that was used to compile and develop the cost per line in Exhibit 2 is  
2 described on pages six through twenty-one in my "introductory" testimony.

3 **Q6. What was the source of the data?**

4 A. The data was derived from the books, financial records and managers of the  
5 RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
6 iffs, service order administration service bureaus, the number portability admini-  
7 stration center, a number portability database provider, and my professional ex-  
8 perience.

9 **Q7. What was the purpose of obtaining that particular data?**

10 A. To assist me in preparing an estimate of the costs to implement LNP for the  
11 RLEC.

12 **Q8. Is this the type of data that experts in your field would ordinarily review in**  
13 **formulating an opinion concerning the costs of LNP?**

14 A. Yes.

15 **Q9. What use did you make of the data after you received it from the RLEC?**

16 A. I have explained the use of the data on pages eleven through twenty-one of my  
17 "introductory" testimony.

18 **Q10. Have you reached an opinion with a reasonable degree of professional cer-**  
19 **tainty as to the total non-recurring costs, excluding transport, to implement**  
20 **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
21 **year recovery period through an end user surcharge?**

22 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
23 \$40,354. Such costs were amortized over a recovery period of 60 months using a

1 rate of return of 11.25%. The total nonrecurring costs per month, excluding trans-  
2 port, amortized over five years is \$882.

3 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
4 **tainty as to the total recurring costs, excluding transport, to implement LNP**  
5 **that you have calculated for the RLEC and that will be recovered from end**  
6 **users on an ongoing monthly charge basis?**

7 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$767 per month.

8 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
9 **tainty as to the total cost, excluding transport, per line per month that would**  
10 **be charged to end-users if LNP were to be implemented by the RLEC?**

11 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
12 the total nonrecurring costs per month amortized over five years to the total recur-  
13 ring costs per month, both amounts excluding transport costs, and dividing this  
14 sum by the RLEC's total access lines. Surcharges and taxes were then applied to  
15 this quotient. The resulting cost per line per month was calculated to be \$4.38.

16 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
17 **tainty as to the total LNP costs and the monthly amount recovered from each**  
18 **end-user if the FCC determines that transport costs should be included in the**  
19 **LNP costs recovered from end-users?**

20 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
21 costs, including transport costs, were calculated to be \$4,217 per month. The re-  
22 sulting LNP cost per line, per month, including transport, surcharges and taxes,  
23 was calculated to be \$11.20.

1 Q14. If FCC determines that transport costs should not be included in the end-  
2 user surcharge, will the transport cost still be incurred and who will pay  
3 these costs?

4 A. Transport costs will have to be incurred to transport calls outside of the RLEC's  
5 service area. If the cost is not recovered through an end-user surcharge, and if  
6 these costs are not recovered from the wireless carrier, then the only party to pay  
7 these costs would be the RLEC.

8 Q15. Is it your opinion that the calculations that you have just described fairly and  
9 reasonably describe the non-recurring and recurring costs for the RLEC to  
10 implement LNP and the end user charges to recover such costs?

11 A. Yes.

12 Q16. Does this conclude your testimony?

13 A. Yes, it does.

14  
15



**Tri County Telecom Inc.****Exhibit 2****Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges & Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 10,640	
Internal Business Procedure Changes	\$ 4,656	
Intercarrier Testing	\$ 3,170	
Other Internal Costs	\$ 20,790	
LNP Query set up	\$ 380	
SOA Non-recurring set up charge	\$ -	
Customer Notification Costs	\$ 718	
Total Non-recurring Costs excluding transport	\$ 40,354	
Non recurring transport charges	\$ 1,903	
Total Non-recurring Costs including transport	\$ 42,257	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 45	
LNP Query Costs per month	\$ 300	
Switch Maintenance Costs per month	\$ -	
Other Monthly Costs	\$ 422	
Total Recurring Monthly Costs excluding Transport	\$ 767	
Transport	\$ 2,526	
Total Recurring Monthly Costs including Transport	\$ 3,293	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 882	
Total Nonrecurring cost per month including transport amortized over five years	\$ 924	
Total cost per month excluding transport	\$ 1,649	
Total cost per month including transport	\$ 4,217	
Access Lines excluding Lifeline	433	
LNP cost per line per month excluding transport	\$ 3.81	\$ 4.38
LNP cost per line per month including transport	\$ 9.74	\$ 11.20

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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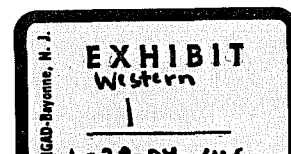
IN THE MATTER OF THE PETITION  
OF WESTERN TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-053

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**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF WESTERN TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF WESTERN TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
68508.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket  
set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your  
role in this Docket in the "companion" testimony that has been offered in this  
Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was re-  
sponsible for the preparation of Exhibit 1 as was attached to the Petition and I was  
also responsible for the preparation of supporting information prepared in connec-  
tion with the responses to the discovery requests of Western Wireless. I was also  
responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "companion" testimony you have explained the line items that com-  
prise Exhibit 2 and the process used to compile the data that was used to de-  
velop the cost as shown on Exhibit 2. Please discuss where in your "compan-  
ion" testimony you describe this process.**

1 A. The process that was used to compile and develop the cost per line in Exhibit 2 is  
2 described on pages four through six in my “companion” testimony.

3 **Q6. What was the source of the data?**

4 A. The data was derived from the books, financial records and managers of the  
5 RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
6 iffs, service order administration service bureaus, the number portability admini-  
7 stration center, a number portability database provider, and my professional ex-  
8 perience.

9 **Q7. What was the purpose of obtaining that particular data?**

10 A. To assist me in preparing an estimate of the costs to implement LNP for the  
11 RLEC.

12 **Q8. Is this the type of data that experts in your field would ordinarily review in**  
13 **formulating an opinion concerning the costs of LNP?**

14 A. Yes.

15 **Q9. What use did you make of the data after you received it from the RLEC?**

16 A. I have explained the use of the data on page six of my “companion” testimony.

17 **Q10. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total non-recurring costs, excluding transport, to implement**  
19 **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
20 **year recovery period through an end user surcharge?**

21 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
22 \$176,780.00. Such costs were amortized over a recovery period of 60 months us-

1 ing a rate of return of 11.25%. The total nonrecurring costs per month, excluding  
2 transport, amortized over five years is \$3,866.00.

3 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
4 **tainity as to the total recurring costs, excluding transport, to implement LNP**  
5 **that you have calculated for the RLEC and that will be recovered from end**  
6 **users on an ongoing monthly charge basis?**

7 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$419.00 per  
8 month.

9 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
10 **tainity as to the total cost, excluding transport, per line per month that would**  
11 **be charged to end-users if LNP were to be implemented by the RLEC?**

12 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
13 the total nonrecurring costs per month amortized over five years to the total recur-  
14 ring costs per month, both amounts excluding transport costs, and dividing this  
15 sum by the RLEC's total access lines. Surcharge and taxes were then applied to  
16 this quotient. The resulting cost per line per month was calculated to be \$4.56.

17 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainity as to the total LNP costs and the monthly amount recovered from each**  
19 **end-user if the FCC determines that transport costs should be included in the**  
20 **LNP costs recovered from end-users?**

21 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
22 costs, including transport costs, were calculated to be \$9,311.00 per month. The

1 resulting LNP cost per line, per month, including transport, surcharges and taxes,  
2 was calculated to be \$9.91.

3 **Q14. If FCC determines that transport costs should not be included in the end-**  
4 **user surcharge, will the transport cost still be incurred and who will pay**  
5 **these costs?**

6 A. Transport costs will have to be incurred to transport calls outside of the RLEC's  
7 service area. If the cost is not recovered through an end-user surcharge, and if  
8 these costs are not recovered from the wireless carrier, then the only party to pay  
9 these costs would be the RLEC.

10 **Q15. Is it your opinion that the calculations that you have just described fairly and**  
11 **reasonably describe the non-recurring and recurring costs for the RLEC to**  
12 **implement LNP and the end user charges to recover such costs?**

13 A. Yes.

14 **Q16. Does this conclude your testimony?**

15 A. Yes, it does.

16

**Western Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 145,987	
Internal Business Procedure Changes (1)	\$ 8,589	
Intercarrier Testing	\$ 1,970	
Other Internal Costs (2)	\$ 19,062	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 982	
Total Non-recurring Costs excluding transport	\$ 176,780	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 178,181	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 135	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 134	
Total Recurring Monthly Costs excluding Transport	\$ 419	
Transport	\$ 4,996	
Total Recurring Monthly Costs including Transport	\$ 5,415	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 3,866	
Total Nonrecurring cost per month including transport amortized over five years	\$ 3,896	
Total cost per month excluding transport	\$ 4,285	
Total cost per month including transport	\$ 9,311	
Access Lines excluding Lifeline	1,080	
LNP cost per line per month excluding transport (5)	\$ 3.97	\$ 4.56
LNP cost per line per month including transport (5)	\$ 8.62	\$ 9.91

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

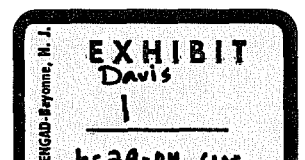
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IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY, BERESFORD MUNICIPAL  
TELEPHONE COMPANY, MIDSTATE  
COMMUNICATIONS, INC., WESTERN  
TELEPHONE COMPANY, RC COM-  
MUNICATIONS, INC., AND ROBERTS  
COUNTY TELEPHONE COOPERATIVE  
ASSN. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025  
Docket No. TC04-048  
Docket No. TC04-052  
Docket No. TC04-053  
Docket No. TC04-056

DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF THE ABOVE-NAMED COMPANIES

May 14, 2004







1 to that I worked for Aliant Communications in the areas of Regulatory Policy and  
2 Separations and Access.

3 Q. **What is your educational background?**

4  
5 A. I have a Master's degree in Finance and a Bachelor's degree in Business from the  
6 University of Nebraska.

7 Q. **What is the purpose of your testimony?**

8  
9 A. The purpose of my testimony is to support the applications filed pursuant to Sec-  
10 tion 251(f)(2) of the Telecommunications Act of 1934 as amended ("the Act")  
11 and South Dakota Codified Laws SDCL § 49-31-80, by each of the RLECs. Spe-  
12 cifically, I will address the costs developed by each of the RLECs' personnel and  
13 TELECOM that were identified as costs that would be incurred for the provision of  
14 LNP. These costs serve as support for each of the RLECs' contention that a sus-  
15 pension or modification of the FCC's wireline-to-wireless LNP requirement is  
16 necessary pursuant to Section 251(f)(2)(A)(i) of the Act, to avoid a significant  
17 adverse economic impact on telecommunications users generally, or pursuant to  
18 Section 251(f)(2)(A)(ii) to avoid imposing a requirement that is unduly economi-  
19 cally burdensome.

20 Q. **Will you please explain your professional experience that was used in assist-**  
21 **ing the RLECs to develop their costs?**

22  
23 A. Yes, I will. As I stated earlier, I previously held the position of CLEC Regula-  
24 tory/Finance Manager for Aliant Communications' start-up CLEC operation. As  
25 the CLEC Regulatory/Finance Manager, I was involved in many of the CLEC's  
26 implementation activities, including LNP. Although I was not directly responsi-

1 ble for the implementation of LNP, I was responsible for interfacing with the  
2 Qwest Wholesale Management team on issues relating to LNP. In addition, I had  
3 the responsibility of tracking the costs of the CLEC's customer support operations  
4 and network management, where the direct responsibility for LNP implementa-  
5 tion resided.

6 As part of the CLEC implementation team, I attended a Qwest training session on  
7 LNP. As part of the training session, I toured the Qwest service facilities where  
8 local service request forms ("LSRs") and firm order confirmation forms ("FOCs")  
9 were processed. At that time, the Qwest automated IMA system was in develop-  
10 ment, thus Qwest was processing many LSRs and FOCs through their systems  
11 manually. Many of the RLECs would process LSRs and FOCs through their sys-  
12 tems manually if LNP were required to be implemented.

13 As the regulatory manager and as a consultant, I have negotiated many intercon-  
14 nection agreements and have completed documentation required by service order  
15 administrators ("SOAs") and Neustar. In addition, I have compiled data neces-  
16 sary to file tariffs at both the state and federal levels.

17 Q. **Will you please explain the process used to compile and develop the cost per**  
18 **line in Exhibit 2 as compiled for each of the RLECs?**

19  
20 A. Yes, I will. After the FCC released its November 10, 2003 Order on wireline to  
21 wireless LNP, personnel representing each of the RLECs and TELECOM Consulting  
22 personnel began an in-depth analysis of new processes which would be required  
23 for RLEC's to implement LNP and costs that would have to be incurred to im-  
24 plement LNP. We specifically discussed and analyzed administrative require-

1       ments such as registering with the Number Portability Administration Center  
2       (“NPAC”), SOAs and service bureau options, technical interfaces with the service  
3       bureau, provisioning processes, switch upgrades, query services, cost recovery  
4       and LNP end user charges and tariff filing requirements. In addition, we analyzed  
5       other requirements necessary to implement wireline to wireless LNP based upon  
6       the FCC’s November 10, 2003 Order.

7       Q.     **Will you please explain the information that TELEC requested the RLECs to**  
8       **review, analyze, and compile regarding the implementation of LNP?**

9       A.     Yes, I will. TELEC specifically requested for each RLEC to obtain a price quote  
10       from its switch vendor for LNP capability (including installation) in each switch.  
11       Estimated costs of implementing LNP, such as switch translation changes and ad-  
12       ditional signaling links, were requested. In addition, TELEC requested that each  
13       RLEC analyze in detail the modifications to its internal processes that would be  
14       required as a result of LNP implementation and the costs of those modifications.  
15       Specifically, each RLEC was to analyze the requirements necessary to develop in-  
16       ternal provisioning processes that would allow the company to process an order  
17       for LEC-to-wireless LNP interfaces. TELEC provided each RLEC with an initial  
18       list of issues and types of costs to consider. TELEC also requested for each com-  
19       pany to estimate how many hours executive and general management would  
20       spend in reviewing the November 10, 2003 Order, researching the implications of  
21       LNP, and attending seminars and conference calls that specifically addressed or  
22       would address LNP. TELEC requested that each company also estimate the costs  
23       that would be incurred to notify customers of any LNP end-user surcharge. Fi-  
24

1 nally, TELEC requested that each RLEC develop the cost that would be required  
2 to transport calls to each wireless provider's point of interconnection within the  
3 LATA in which each end-office is located. I will address each of these compo-  
4 nents in my explanation of Exhibit 2.

5 Q. **Will you please identify the processes for which TELEC analyzed and devel-**  
6 **oped costs on behalf of the RLECs?**

7  
8 A. Yes, I will. TELEC reviewed SOA service bureau options and the cost incurred  
9 for connectivity to the service bureau and the estimated monthly costs for each in-  
10 terface option. TELEC determined the pricing for LNP query service including  
11 the one-time implementation fee and the per query charge based upon pricing  
12 provided by a query service provider. TELEC provided input on the number of  
13 hours required for negotiating and establishing inter-company porting agreements,  
14 completing trading partner profile requests, establishing and finalizing contracts  
15 with a SOA and with the NPAC, and the time and cost to file tariffs with the FCC.  
16 TELEC also estimated the time and costs for inter-carrier testing, the monthly  
17 costs of processing porting requests, and customer notification cost if it was not  
18 provided by the company. I will explain each of these components in my expla-  
19 nation of Exhibit 2.

20 Q. **Will you please explain what was done with the information that was com-**  
21 **plied?**

22  
23 A. Yes, I will. After all of the data was compiled, the costs that were developed  
24 were entered onto an Excel spreadsheet under specific non-recurring and recur-  
25 ring cost categories. The total non-recurring costs and the total recurring costs

1        were calculated which were then used to calculate a total cost per access line.  
2        This information formed the basis for Exhibit 1 that was filed with each of the  
3        RLEC's Petitions. Since that time, I have performed a more thorough analysis of  
4        these costs, taking into account, additional data that I received from the RLECs  
5        and from providers of LNP services. This further analysis is reflected in the re-  
6        sults shown on Exhibit 2.

7        Q.    **Will you please explain what costs are represented by the line item entitled**  
8        **"Switch Upgrade Costs" on the page titled "Exhibit 2" attached to each of**  
9        **the RLECs' applications?**

10  
11       A.    Yes. In general, switch upgrade costs are those that are incurred that allow a  
12       switch to launch a query to the number portability database over the SS7 network  
13       to determine whether a telephone number has been ported and the Location Rout-  
14       ing Number ("LRN") for the switch that serves the ported number. Switch up-  
15       grade costs also include any costs that are required to update switch translation  
16       tables that will associate the LRN of the new service provider's switch or Point of  
17       Interconnection ("POI") with the trunk group number for outgoing traffic to that  
18       service provider. When the response comes back from the database query with  
19       the LRN, the routing table will cause the call to be routed down the appropriate  
20       trunk group for call completion.

21       Q.    **Will you please explain what costs are represented on the line item on Ex-**  
22       **hibit 2 entitled "Internal Business Procedure Changes"?**

23  
24       A.    Yes, I will. These are costs associated with modifying the internal processes that  
25       the RLECs, use to enable the processing of a request for porting a number. The  
26       nine slides, obtained from Neustar and EasyPorting.com and attached to this tes-

1 timony as Exhibit A, are useful to review to obtain an understanding of LNP op-  
2 erations flows. Once an understanding of the LNP operations flows had been ac-  
3 quired by the RLECs, each was able to review their current operations flows and  
4 determine the modifications that would be required for LNP.

5 Page N1 shows the main process flow commencing with an end-user contacting  
6 the new service provider. The new service provider contacts the old service pro-  
7 vider by sending an LSR. The old service provider validates the information on  
8 the LSR. The old service provider communicates with the new service provider  
9 by sending an FOC. Both the old service provider and the new service provider  
10 contact their SOA. The old service provider enters data obtained from the LSR  
11 onto a web interface with the SOA. Assuming there are no conflicts or that the  
12 end user does not change his or her mind, on the due date, the Number Portability  
13 Administration Center or "NPAC" downloads all of the information into the  
14 number portability databases and the order should then complete. These obvi-  
15 ously are very complicated processes, particularly for rural companies that have  
16 limited resources.

17 Page N2 shows the detailed LNP flow that most carriers must take into considera-  
18 tion in planning modifications to internal processes. Page N3, which is a subpart  
19 of Page N1, shows the exchange of the LSR and FOC between the wireline and  
20 wireless provider. Page N4, which is a subpart of Page N1, shows the exchange  
21 of information between the wireline provider and wireless provider with the SOA  
22 or with the NPAC. Page N5 demonstrates how a port is activated without the un-

1 conditional 10 digit trigger. Page N6 demonstrates how a port is activated with  
2 the unconditional 10 digit trigger. Page N7 demonstrates the process flow if there  
3 is a conflict between the old service provider and the new service provider. This  
4 conflict may be caused by incomplete or incorrect data entered on the LSR or it  
5 may be caused by inconsistent data provided to the NPAC by either the new or  
6 old service provider. Page N8 demonstrates the process when an end-user  
7 changes his or her mind and requests that the porting order be cancelled. Page N9  
8 is a continuation of Page N8 . This page also demonstrates the process flow when  
9 the order has been cancelled but in this case, a cancellation notification message  
10 was not provided to the NPAC from the new service provider. Both the new ser-  
11 vice provider and the old service provider must take the appropriate actions re-  
12 lated to internal work orders in order in to resolve the conflict and cancel the or-  
13 der.

14 LNP requires the creation or modification of internal business processes or proce-  
15 dures. The costs included on the line entitled "Internal Business Procedure  
16 Changes" captures the cost to create a process to enable the RLEC to process an  
17 LSR and FOC. Additional activities and costs included on this line of Exhibit 2  
18 are costs involved in researching the changes that need to occur to communicate  
19 with the SOA's service bureau and/or the NPAC and the cost of the actual modi-  
20 fications. Additional costs in this category include training customer service per-  
21 sonnel, researching and complying with industry LSR and FOC standards, chang-  
22 ing and adding service order screens, changing and adding plant management sys-



1       tems for disconnects based upon LSR information, and researching methods to  
2       inventory ported numbers. The costs also include those associated with research-  
3       ing possible communications changes to PSAPs, reviewing different porting ap-  
4       plications between simple and complex ports, researching interfaces with regional  
5       databases, establishing reports that may be required by the Commission or FCC,  
6       and costs of putting the end-user charge on the monthly bill. These are other  
7       types of activities and costs that are included in the category.

8       Q.     **Will you please explain what costs are represented on the line item on Ex-**  
9       **hibit 2 entitled "Intercarrier Testing"?**

10      A.     Yes, I will. The costs included with this subcategory are those costs incurred to  
11      test all of the porting processes prior to processing the first porting request and to  
12      trouble shoot any problems that may occur during the initial phases of LNP im-  
13      plementation. As previously demonstrated, LNP involves many new and compli-  
14      cated processes which must be tested prior to implementation to ensure that orders  
15      for porting will be completed either successfully or with a minimal amount of  
16      failures. All of the process flows described in pages N1 through N10 of Exhibit B  
17      must be tested, including canceled orders and orders when the end-user returns to  
18      the original service provider. The West Coast NPAC Region OPI Testing Sub-  
19      committee identified seven key elements associated with inter-company testing  
20      that commence after carriers have developed and tested their internal processes.

21      The key elements identified are :

- 22      1.   Contact Test Partner, 60 days prior to test.
- 23      2.   Logical Test Planning, 60 days prior to test start.

- 1           3. Physical Test Planning, 45 days prior to test start.
- 2           4. Final test preparation.
- 3           5. Begin testing by exchanging LSR and FOC information.
- 4           6. Evaluate test results.
- 5           7. Commence commercial porting.

6           These process flows have caused problems for even the larger wireless carriers in  
7           implementing wireless-to-wireless LNP. For example, in a letter to the FCC re-  
8           garding LNP implementation<sup>1</sup>, AT&T Wireless stated that “while AWS con-  
9           ducted intercarrier testing, including bilateral and round robin systems testing, the  
10          other carrier’s clearinghouse vendor implemented its systems based on a differing  
11          interpretation of industry guidelines and suffered periodic outages during the  
12          critical last weeks of testing that hampered adequate testing.” AT&T further  
13          stated in the same letter that “Despite all of these efforts to implement and prepare  
14          for a smooth transition to LNP, the implementation of LNP has not been without  
15          problems for AWS as well as the wireless industry as a whole. LNP is a major  
16          undertaking of great complexity that affects nearly every aspect of carriers’ sys-  
17          tems; this complexity is compounded by the fact that various carriers’ systems  
18          need to interface and communicate with each other seamlessly during a com-  
19          pressed period of time for porting to work smoothly.” I believe AT&T’s experi-  
20          ence demonstrates the complexities of LNP and the need for adequate testing

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<sup>1</sup> Letter from Douglas I. Brandon, Vice President, External Affairs & Law, AT&T Wireless, addressed to John B. Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, December 10, 2003.

1 weeks prior to the first porting possibility. It should also be noted that given the  
2 size of each of the RLECs, testing and its related costs would be a significant bur-  
3 den.

4 Q. **Will you please explain what costs are represented on the line item on Ex-**  
5 **hibit 2 entitled “Other Internal Costs”?**

6  
7 A. Yes. The costs that are included in this subcategory are regulatory, consulting,  
8 and legal costs. These are costs that are incurred to negotiate and establish  
9 agreements with NPAC and the SOA, query service entities and service providers  
10 requesting LNP. Also included in this sub-category are costs associated with  
11 completing intercarrier porting forms and trading partner profile forms; establish-  
12 ing, writing and filing a tariff with the FCC for the end-user charge; and compa-  
13 nies’ management on LNP implementation.

14 Q. **Will you please explain what costs are represented on the line entitled “LNP**  
15 **Query set up”?**

16  
17 A. Yes, I will. This is a one time charge that a third party data base provider assesses  
18 on a per point code basis in order to obtain connection with the number portability  
19 databases.

20 Q. **Will you please explain what costs are represented on the line item on Ex-**  
21 **hibit 2 entitled “SOA Non-recurring set-up charge”?**

22  
23 A. Yes, I will. This is a charge that is assessed by the SOA service bureau as a one-  
24 time charge that allows the RLEC to set-up and access the SOA service bureau’s  
25 web interface. An RLEC would enter data received from a wireless carrier onto a  
26 screen accessed through the web. The information entered will ultimately be used  
27 to update the master database with information on the ported number. Once the

1 RLEC receives an LSR from a wireless carrier, the RLEC would enter data from  
2 the LSR, such as the customer's name, address, and due date onto the screen. If  
3 all of the data is correct on the LSR and the data has been entered onto the screen  
4 correctly and assuming the customer does not change his or her mind and cancel  
5 the order, the SOA service bureau will send an "activate" message to the NPAC  
6 on the due date, and the master database is updated with the new record.

7 Although TELEC used the low cost provider in calculating the cost on Exhibit 2,  
8 it is important to note that there could be legitimate business reasons why a com-  
9 pany may choose to use a full-scale service bureau.

10 Q. **Will you please explain the costs that are represented by the line item on Ex-**  
11 **hibit 2 entitled "Customer Notification Costs"?**

12  
13 A. Yes. These are costs that will be incurred to notify and educate customers of the  
14 end-user surcharge that will be assessed on their monthly bill as well as any other  
15 line item on the bill that may increase as the result of LNP implementation.

16 Q. **Will you please explain what costs are represented on the line item on Ex-**  
17 **hibit 2 entitled "Non-recurring transport charges"?**

18  
19 A. Yes, I will. These are the non-recurring costs associated with establishing DS1  
20 trunk groups to each wireless provider's POI in each LATA. If a wireless carrier  
21 has not established a direct connection within an RLEC exchange in which it re-  
22 quests LNP the facilities would need to be provisioned to ensure that the proper  
23 routing and completion of calls to ported numbers occur.

24 Q. **Why are these costs included in the cost analysis?**  
25

1 A. Costs to transport ported calls to a wireless carrier's POI have been included in  
2 our analyses to demonstrate the potential impact that transport costs would have  
3 on the RLECs' end-users if the RLEC must arrange for the transport to accom-  
4 modate LNP.

5 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
6 **hibit 2 entitled "Transport"?**

7  
8 A. Yes. This is the monthly cost of DS1s that would be incurred to provision trans-  
9 port facilities to wireless service providers if the RLECs must provide transport  
10 services outside of their exchange areas. DS1 services have previously been de-  
11 scribed under the line item entitled "Non-recurring transport charges".

12 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
13 **hibit 2 entitled "SOA Monthly Charge"?**

14  
15 A. Yes, I will. This is the monthly cost assessed by a SOA service bureau for access-  
16 ing the SOA's web interface to enter the porting information received from a  
17 wireless carrier on an LSR. SOA services were previously described under the  
18 description entitled "SOA non-recurring set-up charge".

19 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
20 **hibit 2 entitled "LNP Query Costs per month"?**

21  
22 A. Yes, I will. This is the cost that would be assessed by a third party database pro-  
23 vider for the RLEC to query its database to determine if the number has been  
24 ported and, if so, the appropriate LRN to which the call should be routed. This  
25 cost is assessed either on a per-query basis, or in a flat monthly amount if the  
26 number of queries does not reach a minimum level each month.

1 Q. **Will you please explain the costs that are represented on the line item on Ex-**  
2 **hibit 2 entitled “Other Recurring Costs”?**

3  
4 A. Yes, I will. These are the costs that are associated with RLEC personnel process-  
5 ing an LNP order and disconnecting the end-user.

6 Q. **Will you please explain how the “Monthly Cost calculations per line”**  
7 **amounts were calculated?**

8  
9 A. Yes I will. There are four lines of cost derived under the heading “Monthly Cost  
10 Calculations per line”. The first line involves the calculation of the total nonrecur-  
11 ring cost per line per month excluding the cost of transport. The cost on this line  
12 is calculated by amortizing the amount on the line titled “Total Non-recurring  
13 Costs excluding transport” over a 60-month period at the current rate of return of  
14 11.25% as prescribed pursuant to Part 65 of the FCC rules.

15 The second line involves the calculation of the total nonrecurring cost per line per  
16 month including the cost of transport. The cost on this line is calculated by amor-  
17 tizing the amount on the line titled “Total Non-recurring Costs including trans-  
18 port” over a 60-month period at the current rate of return of 11.25% as prescribed  
19 pursuant to Part 65 of the FCC rules.

20 The third line involves the calculation of the total cost per line excluding trans-  
21 port. The cost on this line is calculated by adding the amount as shown on the  
22 “Total Nonrecurring cost per month excluding transport” line with the amount as  
23 shown on the “Total Recurring Monthly Cost excluding Transport” line.

24 The fourth line involves the calculation of the total cost per line including trans-  
25 port. The cost on this line is calculated by adding the amount as shown on the

1           “Total Nonrecurring cost per month including transport” line with the amount as  
2           shown on the “Total Recurring Monthly Cost including Transport” line.

3    Q.    **Will you please explain how the LNP cost per line per month is calculated?**

4    A.    Yes, I will. The total cost per month excluding transport is divided by the access  
5           lines to derive the LNP cost per line per month excluding transport amount. The  
6           total cost per month including transport is divided by the access lines to derive the  
7           LNP cost per line per month including transport amount.

8    Q.    **Has the FCC created a mechanism for carriers to recover carrier-specific**  
9           **costs directly related to providing LNP from end-users?**

10  
11   A.    Yes, it has. The FCC in its Third Report and Order on LNP allowed, but did not  
12           require, incumbent LECs to recover their carrier-specific costs directly related to  
13           providing number portability through a federal charge on end-users.<sup>2</sup> The FCC  
14           determined that incumbent LECs should pro rate the monthly LNP charge over  
15           five years by setting a rate at which the present value of the revenue recovered by  
16           the charge equals the present value of the cost being recovered.<sup>3</sup> The FCC found  
17           that carriers should use a discount rate equal to the rate of return on investment  
18           that the FCC has authorized for regulated interstate access services pursuant to  
19           Part 65 of the FCC rules. Any remaining costs must be recovered through existing  
20           mechanisms available for recovery of general costs.<sup>4</sup>

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<sup>2</sup> *In the Matter of Telephone Number Portability*, CC Docket 95-116, RM 8535, *Third Report and Order*, Released May 12, 1998, at paragraph 135.

<sup>3</sup> *Id.* at paragraph 143.

<sup>4</sup> *Ibid.*

1 In addition, the FCC found that after a carrier establishes its level end-user charge  
2 in the tariff review process, the FCC would not anticipate that the carrier could  
3 raise the charge during the five-year period unless it could show that the end-user  
4 charge was not reasonable based upon the information available at the time it was  
5 initially set.<sup>5</sup>

6 Q. **If carrier is restricted in its ability to change the LNP tariff charge during 5**  
7 **year period, does this impact how carrier implements LNP?**

8  
9 A. Yes, it does. A carrier can not recover any increase in cost it incurs in the future  
10 through the LNP surcharge once the charge has been approved by the FCC. If a  
11 carrier tries to minimize its cost to implement LNP, it risks exposure to any future  
12 increase in cost. Thus, in order to reduce its exposure to this risk, a carrier may  
13 implement LNP using service providers or systems that may not, in all cases, be  
14 the low cost provider or product.

15 Q. **Has the FCC created a standard that carriers must follow in demonstrating**  
16 **that costs are eligible for recovery through the federal charges recovery**  
17 **mechanism?**

18  
19 A. Yes, it has. In a Memorandum Opinion and Order, the FCC's Common Carrier  
20 Bureau adopted a "but for" test used to identify carrier-specific costs directly re-  
21 lated to LNP. Under this test, costs are eligible for recovery in the FCC LNP end-  
22 user surcharge if they satisfy the following two requirements: (1) the costs would

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<sup>5</sup> Id. at paragraph 144.



1 not have been incurred by the carrier “but for” the implementation of LNP; and  
2 (2) the costs were incurred “for the provision of” LNP.<sup>6</sup>

3 Q. **Do you believe that all of the costs on Exhibit 2, other than transport costs,**  
4 **are recoverable from the FCC’s LNP end-user charge based upon the stan-**  
5 **dard created by the FCC?**

6  
7 A. I believe that all of the costs as represented on Exhibit 2, with the exception of  
8 surcharges and taxes, meet the standard created by the FCC.

9 Q. **Why is the cost of transport included on Exhibit 2 and does the cost for**  
10 **transport meet the standard created by the FCC?**

11  
12 A. Each of the RLECs has included transport costs to provide full accounting of  
13 costs that may be incurred to implement LNP. It is not clear if the transport cost  
14 can be recovered from end-users through the LNP surcharge, pursuant to the  
15 FCC’s rules.

16 Q. **If some of the costs that are incurred as a consequence of LNP but not recov-**  
17 **ered from the FCC’s end-user surcharge, is it reasonable to include any such**  
18 **costs as part of the total cost on Exhibit 2?**

19  
20 A. Yes. In order to determine the economic impact on end-users, all of the potential  
21 increases in cost that may ultimately be passed on to users must be determined.  
22 These potential costs may be passed through to the users in forms that are in addi-  
23 tion to the FCC’s LNP end-user surcharge.

24 Q. **If the total costs are not allowed to be recovered through the FCC’s end user**  
25 **surcharge, how would the costs excluded from the FCC’s end user surcharge**  
26 **be recovered?**  
27

---

<sup>6</sup> *Telephone Number Portability Cost Classification Proceeding*, CC Docket No. 95-116, RM 8535, *Memo-randum Opinion and Order*, 13 FCC Rcd, 24495, 24500, Adopted December 14, 1998, at paragraph 10.

1 A. Those costs incurred but excluded from the FCC's end-user surcharge would have  
2 to be passed on to end-users, most likely as an increase in the monthly local rate.  
3 If the costs could not be passed onto the end-user, the RLEC would be forced to  
4 absorb these costs.

5 Q. **The FCC has issued a FNPRM seeking comment on whether it should reduce**  
6 **the current four business day porting interval for intermodal porting. What**  
7 **would happen to the costs on Exhibit 2 if the FCC ultimately rules that the**  
8 **porting interval should be shortened?**  
9

10 A. Although none of the RLECs have quantified the costs to shorten the porting in-  
11 terval, there is consensus within the LEC industry that reducing the porting inter-  
12 val for intermodal porting would significantly increase the costs associated with  
13 implementing wireless number portability. USTA informed the FCC that a reduc-  
14 tion in the porting interval for LECs would require LECs to reconfigure their net-  
15 works at a substantial cost. According to USTA, significant changes to ILECs'  
16 operational support systems and other systems would be required at a substantial  
17 cost.<sup>7</sup> According to Qwest, material changes to the current four-day porting inter-  
18 val would require substantial investment, costs and resources, both system and  
19 human, which would ultimately be recovered from consumers.<sup>8</sup> BellSouth con-  
20 tends that shortening the porting timeframe for intermodal porting would increase  
21 the costs associated with implementing number portability. Requiring carriers of

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<sup>7</sup> *In the Matter of Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Comments of the United States Telecom Association, CC-Docket No. 95-116, January 20, 2004, at page 6.

<sup>8</sup> *In the Matter of Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Comments of Qwest Corporation, CC-Docket No. 95-116, January 20, 2004, at pages 7-8.

1 different sizes and utilizing different systems to undergo extensive modifications  
2 to shorten the porting interval would be a significant financial commitment, which  
3 would necessitate appropriate cost recovery

4 Q. **Why is it important for the Commission to take the cost of a shortened port-**  
5 **ing interval into account?**

6  
7 A. The RLECs contend that the cost that would be incurred to reduce the porting in-  
8 terval could be significant. According to the Office of Advocacy, U.S. Small  
9 Business Administration, large wireline carriers estimate that the costs of recon-  
10 figuration could exceed \$100 million and the Office of Advocacy presumes the  
11 costs for small wireline carriers would be proportional.<sup>9</sup> The Commission cannot  
12 assess the potential total economic impact of LNP on end users without knowing  
13 whether the FCC will shorten the porting interval and if it does, what it may cost  
14 for the RLECs to meet the requirements.

15 Q. **Do you believe that the costs as determined in Exhibit 2 will create a signifi-**  
16 **cant adverse economic impact on users of telecommunication services if LNP**  
17 **is implemented?**

18  
19 A. Yes, it would be a very significant impact on customers. I contend that when the  
20 Commission considers the initial and on-going costs of LNP, the Commission will  
21 determine that such costs create a significant adverse economic impact on users of  
22 telecommunications services. FCC rules allow recovery of certain LNP costs  
23 from carriers or from end users through a monthly surcharge imposed over a five-

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<sup>9</sup> *In the Matter of Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Reply Comments of the Office of Advocacy, U.S. Small Business Administration on the Further Notice of Proposed Rulemaking and Initial Regulatory Flexibility Analysis, CC Docket No. 95-116, February 4, 2004, at page 9.

1 year recovery period.<sup>10</sup> Certain costs associated with LNP cannot be recovered  
2 through the end user LNP surcharge or carrier charges. These costs must be re-  
3 covered, if at all, through the LEC's general rates and charges.

4 These costs will be imposed on end-users who have not requested LNP, but not  
5 on the cost causer. This estimated increase in the local service cost do not include  
6 any cost associated with the provision of transporting calls to ported numbers out-  
7 side of RLEC's local service areas. This cost recovery will have a significant ad-  
8 verse economic impact on users of telecommunications service in the RLEC's  
9 service area.

10 Additional unknown costs of LNP could increase the financial burden. The costs  
11 as set forth in Exhibit 2 do not include any cost associated with reducing the port-  
12 ing interval as contemplated by the FCC in its FNPRM. Such reductions of the  
13 porting interval may require the RLECs to make significant changes to its opera-  
14 tions thereby increasing the cost to provide LNP.<sup>11</sup>

15 Q. **Could the implementation of LNP be unduly economically burdensome for**  
16 **the RLECs?**

17  
18 A. Yes, implementation of LNP will be unduly economically burdensome for the  
19 RLECs. Any costs not recovered through the end-user LNP charge or carrier  
20 charge may have to be borne by the RLECs.

---

<sup>10</sup> 47.C.F.R. § 52.33.

<sup>11</sup> FNPRM, para 45.

1 The estimated costs of LNP, set forth in Exhibit 2, are presented on a per-line ba-  
2 sis. However, there is no certainty that all of the LNP costs will be paid by cur-  
3 rent subscribers of each of the RLECs. As discussed previously in my testimony,  
4 there are potential issues concerning which costs will be borne directly by the cus-  
5 tomer and which costs will be borne by the RLECs. Further, based upon the sub-  
6 stantial increase in the cost per line per month caused by LNP, there is no guaran-  
7 tee that all such costs would ultimately be passed on to the end-user in the form of  
8 a rate increase. The potential costs that may be incurred by the RLECs would be  
9 unduly economically burdensome.

10 As shown, LNP implementation could result in the assessment of a new LNP sur-  
11 charge on the RLECs' telephone subscribers and could increase local rates. These  
12 actions would make the RLECs' service offering less competitive with the ser-  
13 vices provided by wireless carriers. Wireless carriers already enjoy a number of  
14 competitive advantages over wireline carriers. For example, because of their FCC  
15 licensed service areas, wireless carriers have larger local calling areas, larger ser-  
16 vice territories, and more potential customers to absorb the cost of LNP. By in-  
17 creasing the cost of service, LNP would make wireline service less competitive  
18 with wireless service.

19 If all of the LNP costs were assigned completely to the RLECs' subscribers, in-  
20 cluding the cost of transport and the cost of systems upgrades to reduce the port-  
21 ing interval, the large size of the surcharge may cause a segment of the RLECs'  
22 customers to discontinue service. The reduction in line count would not allow for

1 the full recovery of LNP costs, causing a negative impact on the RLECs' revenue,  
2 and would lay the foundation for an ever-escalating burden on the remaining  
3 RLEC subscribers to fund common network costs.

4 Q. **Does this conclude your testimony?**

5 A. Yes, it does.

# Exhibit A

# Inter-Service Provider LNP Operations Flows

## - Main Flow -

N1

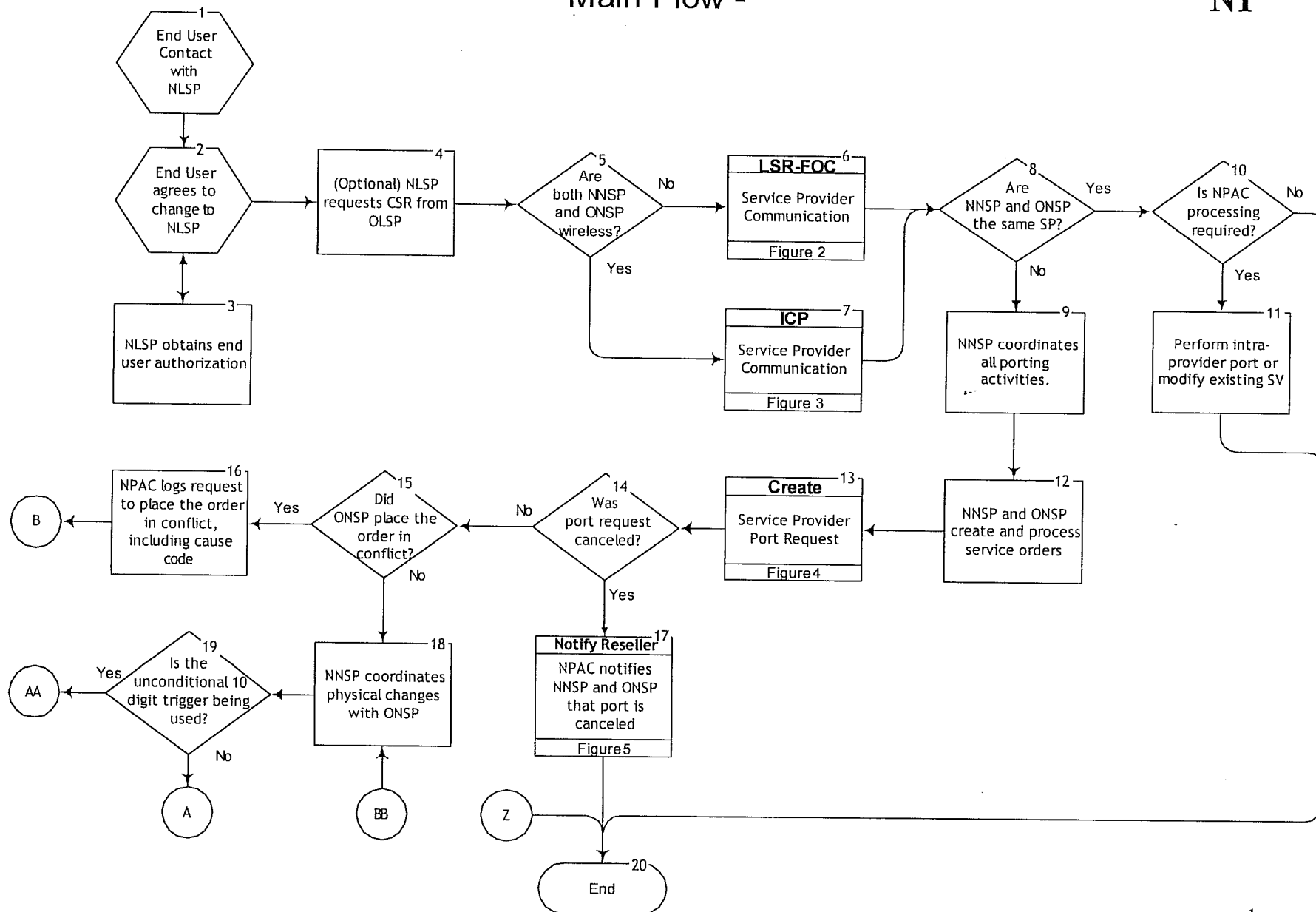
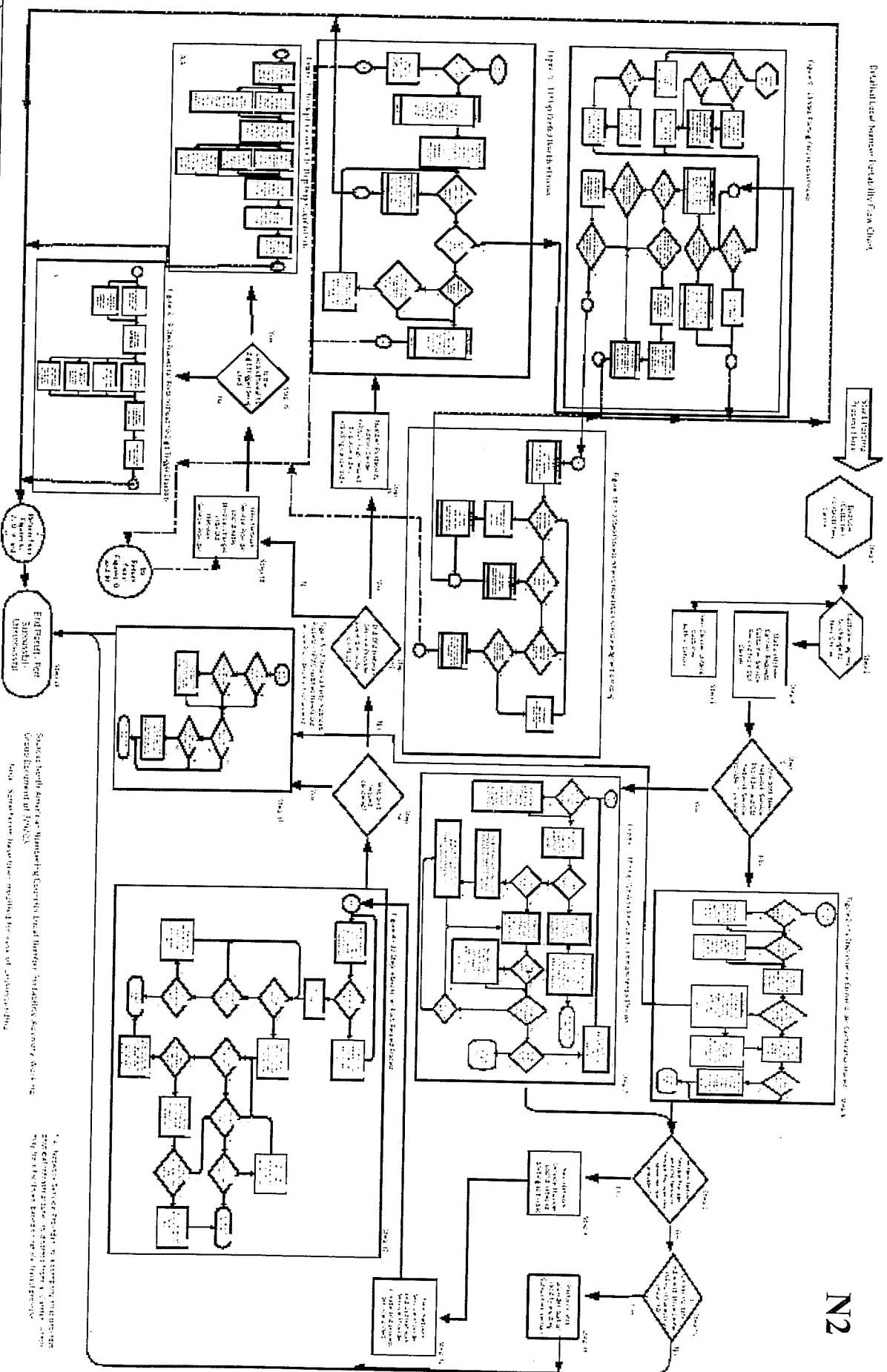


Figure 1



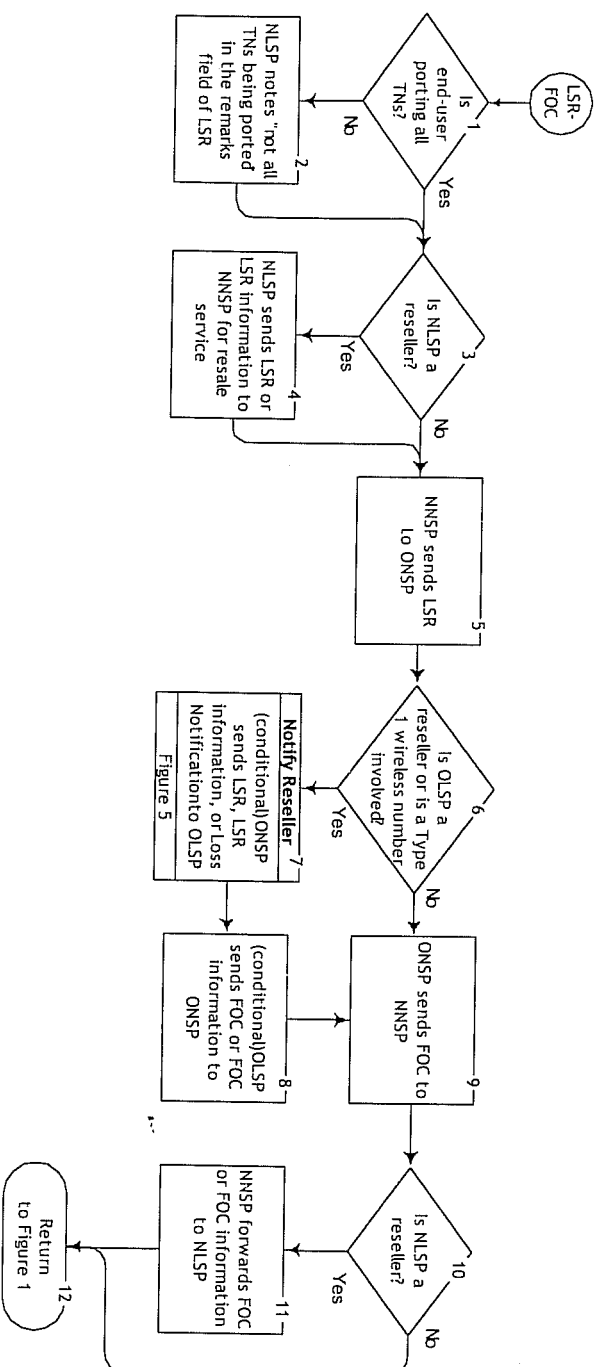
## Detailed LNP Order Flow



# Inter-Service Provider LNP Operations Flows

## - Wireline LSR/FOC Process -

N3



Approved by LNPAWG: 7/9/03

Figure 2

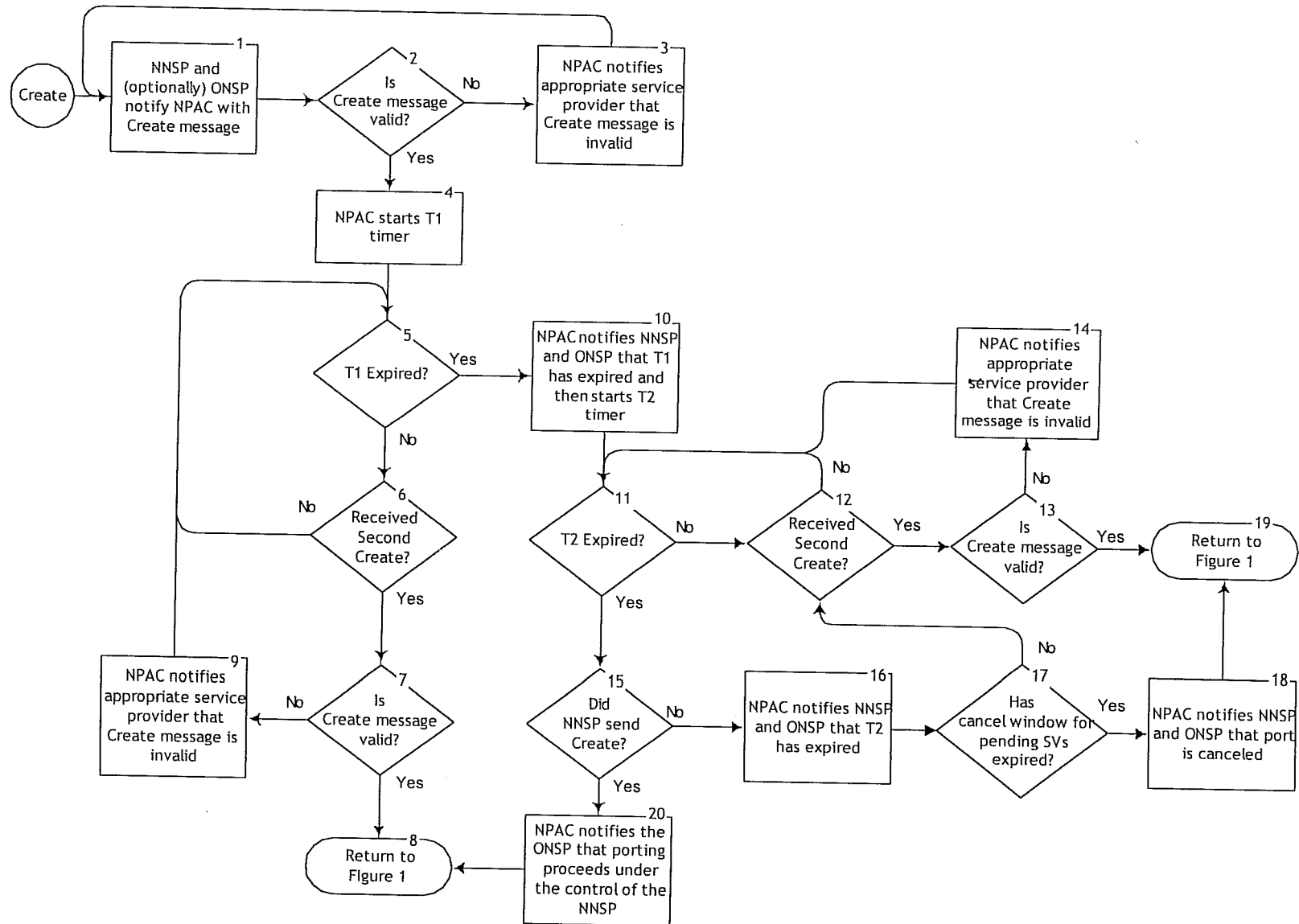
LSR/FOC

Version 2.0  
3

# Inter-Service Provider LNP Operations Flows

## - Subscription Version Create Flow -

N4



# Inter-Service Provider LNP Operations Flows

- Provisioning Without Unconditional 10-Digit Trigger -

N5

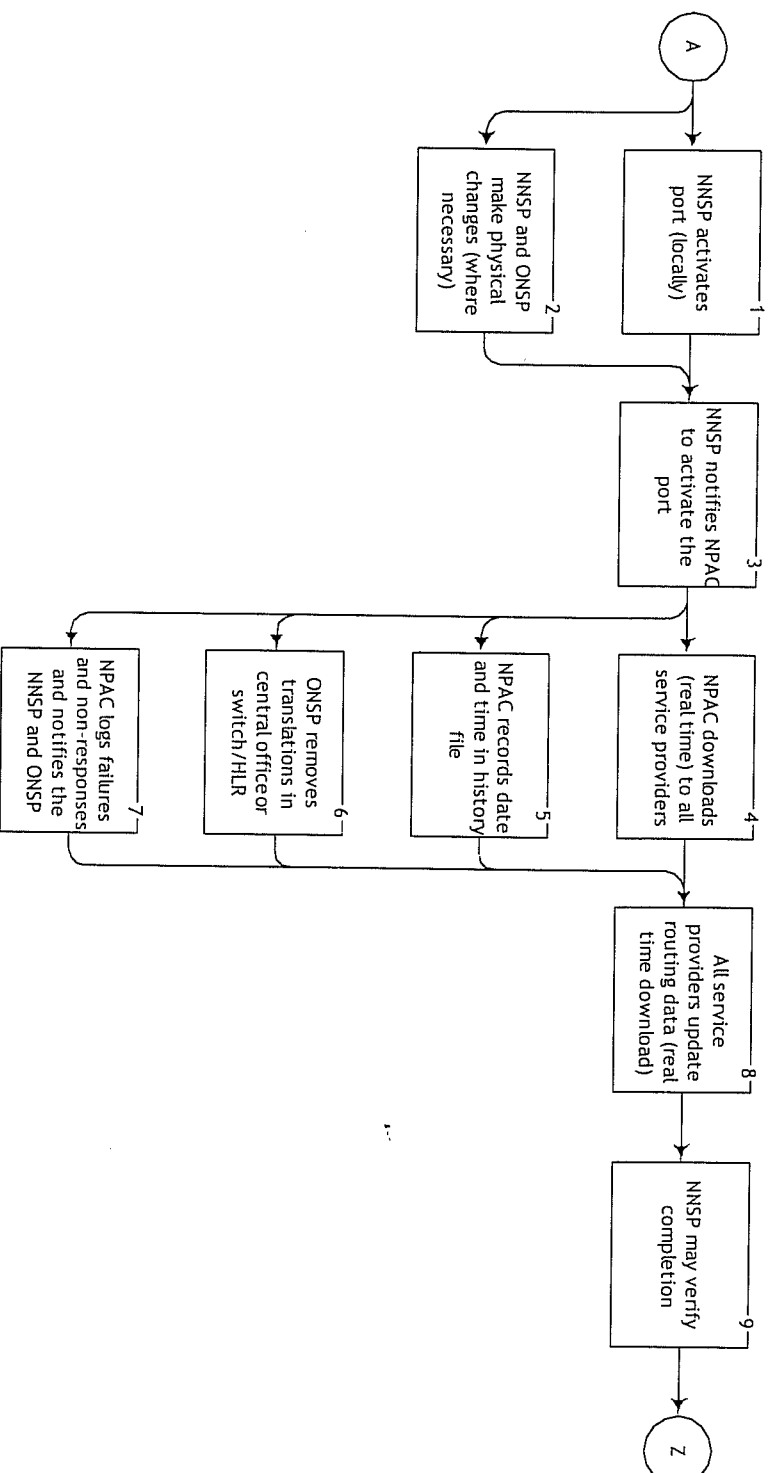
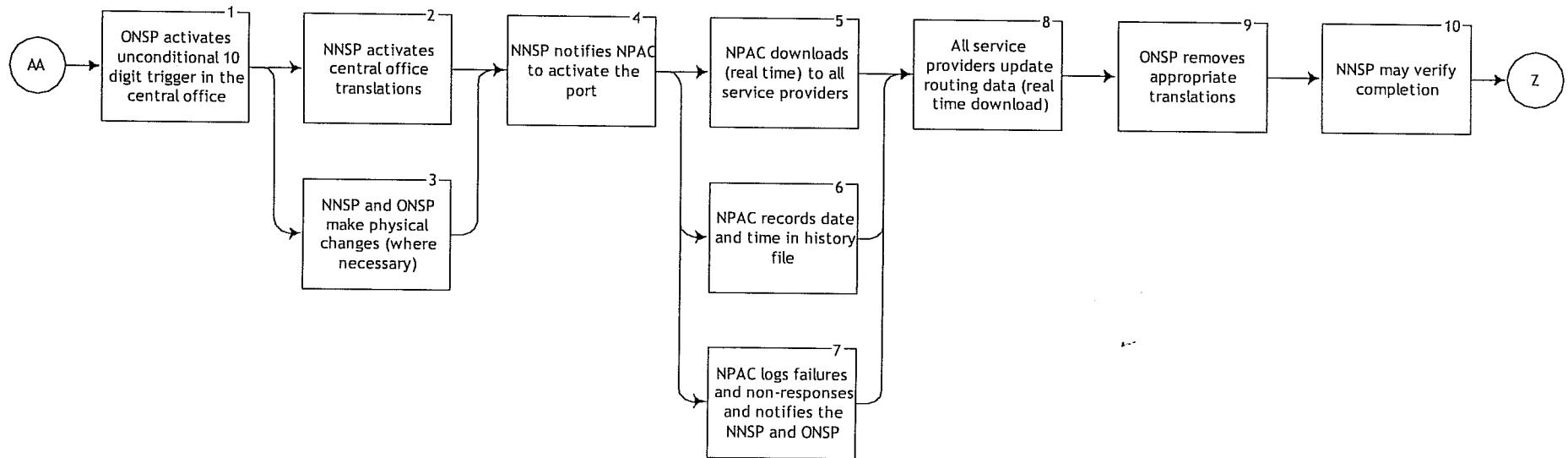


Figure 6

# Inter-Service Provider LNP Operations Flows

## - Provisioning With Unconditional 10-Digit Trigger -

N6



Approved by LNPAWG: 7/9/03

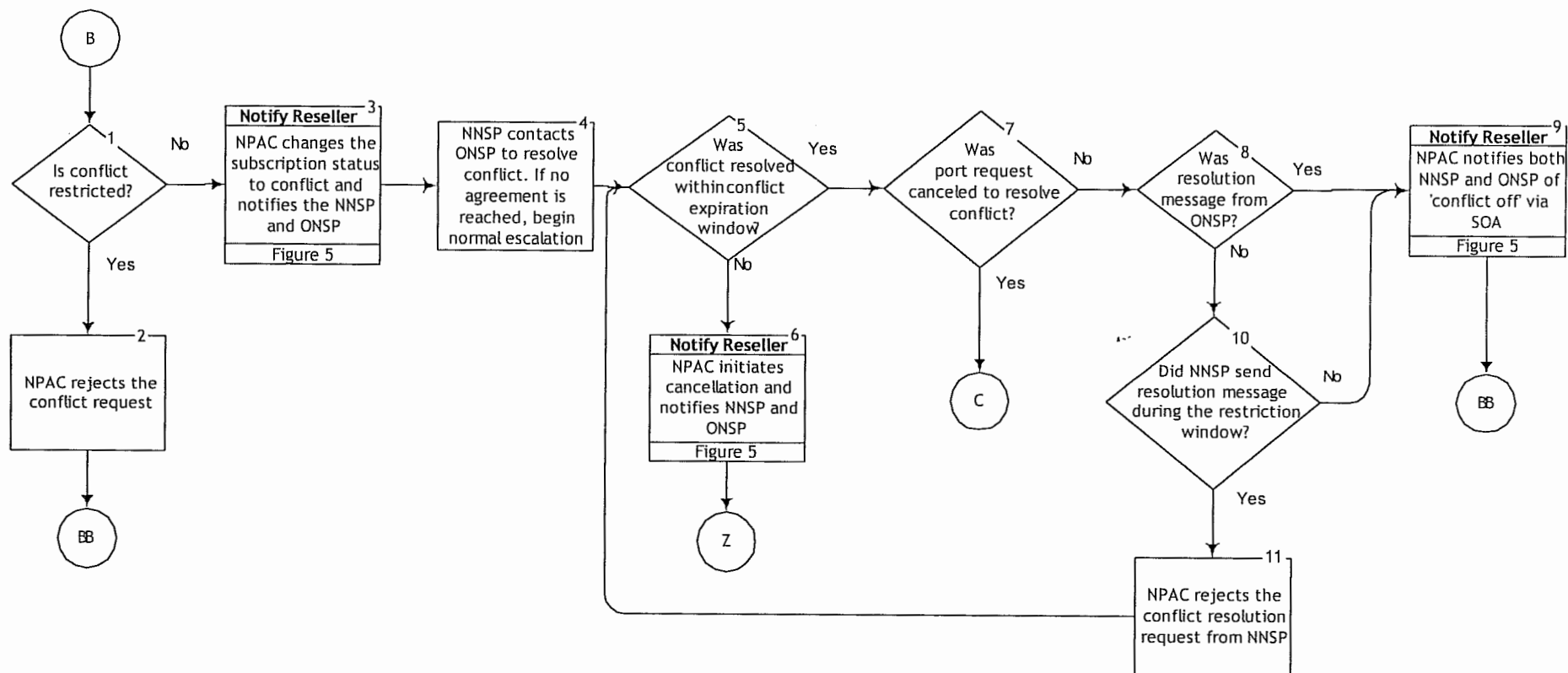
Figure 7

Version 2.0

# Inter-Service Provider LNP Operations Flows

## - Conflict Flow For The Service Creation Provisioning Process -

N7





# Inter-Service Provider<sup>1</sup> LNP Operations Flows

N9

- Cancellation Ack Missing from New Provider Provisioning Process -

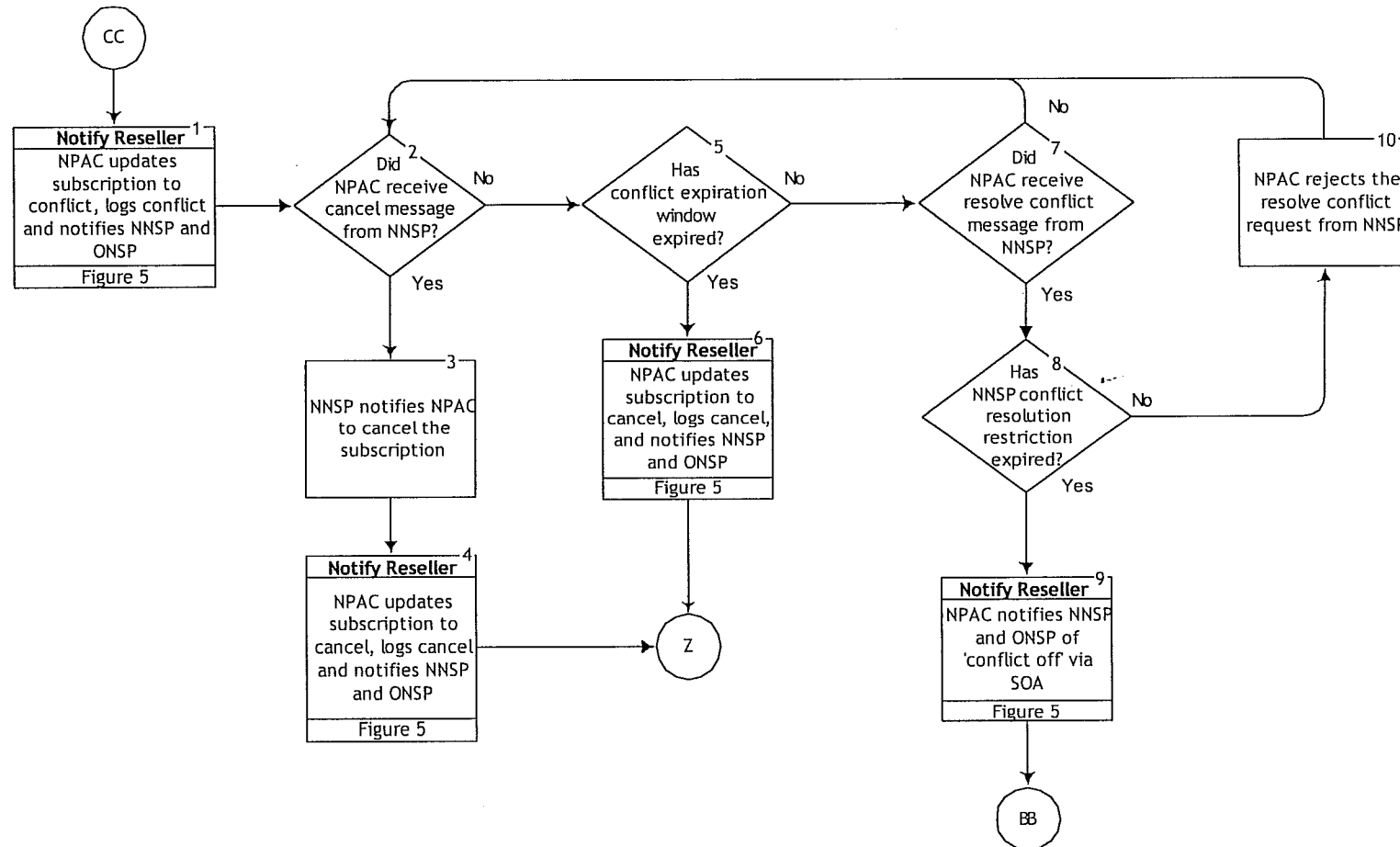


Figure 10



**Kennebec Telephone Company****Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 47,979	
Internal Business Procedure Changes (1)	\$ 20,426	
Inter-carrier Testing	\$ 4,088	
Other Internal Costs (2)	\$ 25,061	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 825	
Total Non-recurring Costs excluding transport	\$ 98,569	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 99,970	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 90	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 141	
Total Recurring Monthly Costs excluding Transport	\$ 381	
Transport	\$ 4,837	
Total Recurring Monthly Costs including Transport	\$ 5,218	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,155	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,186	
Total cost per month excluding transport	\$ 2,536	
Total cost per month including transport	\$ 7,404	
Access Lines excluding Lifeline		735
LNP cost per line per month excluding transport (5)	\$ 3.45	\$ 3.97
LNP cost per line per month including transport (5)	\$ 10.07	\$ 11.58

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**Beresford Municipal Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 16,612	
Internal Business Procedure Changes (1)	\$ 11,962	
Inter-carrier Testing	\$ 5,299	
Other Internal Costs (2)	\$ 20,723	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 1,119	
Total Non-recurring Costs excluding transport	\$ 55,905	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 57,306	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 135	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 293	
Total Recurring Monthly Costs excluding Transport	\$ 578	
Transport	\$ 1,926	
Total Recurring Monthly Costs including Transport	\$ 2,504	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,222	
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,253	
Total cost per month excluding transport	\$ 1,800	
Total cost per month including transport	\$ 3,757	
Access Lines excluding Lifeline	1,418	
LNP cost per line per month excluding transport (5)	\$ 1.27	\$ 1.46
LNP cost per line per month including transport (5)	\$ 2.65	\$ 3.05

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**Midstate Communications, Inc.****Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$	82.110
Internal Business Procedure Changes (1)	\$	3.229
Inter-carrier Testing	\$	4.247
Other Internal Costs (2)	\$	19.474
- LNP Query set up	\$	1.900
SOA Non-recurring set up charge (3)	\$	-
Customer Notification Costs	\$	2.434
Total Non-recurring Costs excluding transport	\$	113.394
Non recurring transport charges (4)	\$	3.870
Total Non-recurring Costs including transport	\$	117.264
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$	-
LNP Query Costs per month	\$	1,500
Other Recurring Costs	\$	788
Total Recurring Monthly Costs excluding Transport	\$	2,288
Transport	\$	7,749
Total Recurring Monthly Costs including Transport	\$	10,037
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$	2.480
Total Nonrecurring cost per month including transport amortized over five years	\$	2,564
Total cost per month excluding transport	\$	4,768
Total cost per month including transport	\$	12,601
Access Lines excluding Lifeline		4,762
LNP cost per line per month excluding transport (5)	\$	1.00
LNP cost per line per month including transport (5)	\$	2.65
	\$	1.15
	\$	3.04

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Local Trunking between sutending end-offices and Midstate's tandem location

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**RC Communications Inc./Roberts County Telephone**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 29,900	
Internal Business Procedure Changes (1)	\$ 15,318	
Intercarrier Testing	\$ 4,915	
Other Internal Costs (2)	\$ 22,319	
- LNP Query set up	\$ 380	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 1,367	
Total Non-recurring Costs excluding transport	\$ 74,199	
Non recurring transport charges (4)	\$ 2,801	
Total Non-recurring Costs including transport	\$ 77,000	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 180	
LNP Query Costs per month	\$ 300	
Other Recurring Costs	\$ 400	
Total Recurring Monthly Costs excluding Transport	\$ 880	
Transport	\$ 9,967	
Total Recurring Monthly Costs including Transport	\$ 10,847	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,623	
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,684	
Total cost per month excluding transport	\$ 2,503	
Total cost per month including transport	\$ 12,531	
Access Lines excluding Lifeline	2,037	
LNP cost per line per month excluding transport (5)	\$ 1.23	\$ 1.41
LNP cost per line per month including transport (5)	\$ 6.15	\$ 7.07

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

**Western Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 145,987	
Internal Business Procedure Changes (1)	\$ 8,589	
Intercarrier Testing	\$ 1,970	
Other Internal Costs (2)	\$ 19,062	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 982	
Total Non-recurring Costs excluding transport	\$ 176,780	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 178,181	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 135	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 134	
Total Recurring Monthly Costs excluding Transport	\$ 419	
Transport	\$ 4,996	
Total Recurring Monthly Costs including Transport	\$ 5,415	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 3.866	
Total Nonrecurring cost per month including transport amortized over five years	\$ 3.896	
Total cost per month excluding transport	\$ 4.285	
Total cost per month including transport	\$ 9.311	
Access Lines excluding Lifeline	1,080	
LNP cost per line per month excluding transport (5)	\$ 3.97	\$ 4.56
LNP cost per line per month including transport (5)	\$ 8.62	\$ 9.91

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

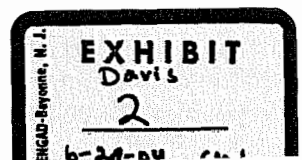
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IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY, BERESFORD MUNICIPAL  
TELEPHONE COMPANY, MIDSTATE  
COMMUNICATIONS, INC., WESTERN  
TELEPHONE COMPANY, RC COM-  
MUNICATIONS, INC., AND ROBERTS  
COUNTY TELEPHONE COOPERATIVE  
ASSN. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025  
Docket No. TC04-048  
Docket No. TC04-052  
Docket No. TC04-053  
Docket No. TC04-056

**REBUTTAL TESTIMONY OF DAN DAVIS**  
**ON BEHALF OF THE ABOVE-NAMED COMPANIES**

June 14, 2004



**REBUTTAL TESTIMONY OF DAN DAVIS**

1  
2  
3 Q. **Please State your name, Employer, Business Address and Telephone Num-**  
4 **ber.**

5  
6 A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
7 My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
8 68508. My Telephone number is (402) 441-4315.

9 Q. **Did you file Direct Testimony in the Applications listed above in this**  
10 **proceeding?**

11  
12 A. Yes. I filed direct testimony on behalf of the companies listed above (to be re-  
13 ferred to as the "RLECs") on May 14, 2004.

14 Q. **Have you read the direct testimony of Mr. Ron Williams on behalf of West-**  
15 **ern Wireless Corporation?**

16  
17 A. Yes, I have.

18  
19 Q. **What is the purpose of your rebuttal testimony?**

20  
21 A. The primary purpose of my rebuttal testimony is to respond to the testimony of  
22 Mr. Williams in regard to cost issues that he discussed in his testimony.

23 Q. **Mr. Williams claims that the Petitioners grossly overstate the implementa-**  
24 **tion and operational costs of LNP. (p.16:20-21;p.17;1-2) Has Mr. Williams**  
25 **provided evidence to support his claim?**

26  
27 A. No, he has not. Mr. Williams' claim is not backed by any supporting evidence or  
28 documentation. Review of Exhibit 5A attached to Mr. Williams testimony re-  
29 veals that he adjusted non-recurring cost items relating to "Other Internal Costs",  
30 "SOA Non-recurring set up charge," and "Non-recurring transport charges" as  
31 well as all of the monthly recurring cost categories. Mr. Williams' proposed  
32 changes to non-recurring and recurring costs have been arbitrarily reduced with-  
33 out any basis in facts.

1 I have attached Exhibit R1 to my rebuttal testimony that summarizes and com-  
2 pares the RLECs' cost exhibits that were filed with my May 14, 2004 testimony  
3 with the cost estimates that were filed by Mr. Williams on May 28, 2004.

4 Q. **Mr. Williams claims that the costs included in the category "Other Internal**  
5 **Costs" are overstated. (p.17:5-11) Do you agree with Mr. Williams?**

6  
7 A. No, I do not. Mr. Williams claims that the costs in this category are overstated  
8 because "the Petitioners have included costs to deal with 'Contracts for Porting'  
9 and costs related to the development of 'Intercarrier Porting Forms'." The  
10 RLECs have included costs for porting contracts because wireless carriers, includ-  
11 ing Western Wireless, have sent Local Number Portability Operations Agree-  
12 ments to the RLECs to govern the porting of telephone numbers between the  
13 wireline and wireless networks. I have attached copies of porting agreements sent  
14 to RLECs to this rebuttal testimony marked as Exhibit R2. Thus, these costs are  
15 undeniable.

16 Mr. Williams also claims that the costs related to the development of "Intercarrier  
17 Porting Forms" are also grossly overstated since porting forms are available to  
18 any carrier for a nominal fee. However, the costs included in this subcategory are  
19 not the costs associated with obtaining a porting form. The costs included in this  
20 subcategory are associated with obtaining the data to complete the form, complet-  
21 ing the form itself, and interacting with the wireless provider to confirm an under-  
22 standing and agreement with the information as compiled on the form. Based  
23 upon the information necessary to complete the Trading Partner Profile and port-  
24 ing questionnaires, an average of ten man-hours per Trading Partner Profile is a  
25 reasonable estimation of time required for this process. I have attached examples



1 of Trading Partner Profile forms and porting questionnaires to this rebuttal testi-  
2 mony marked as Exhibit R3.

3 Q. **Mr. Williams' states that some Petitioners have included non-recurring costs**  
4 **for an automated SOA interface (p. 17:11-13). What amount of costs did the**  
5 **RLECs use on Exhibit 2 on the line entitled "SOA Non-recurrring set up**  
6 **charge" that was attached to Direct Testimony?**

7  
8 A. The RLECs did not include any non-recurring costs on the line entitled "SOA  
9 Non-recurring set-up charge" on Exhibit 2 that was attached to my direct testi-  
10 mony.

11 Q. **Mr. Williams states that Beresford has claimed a nonrecurring charge of**  
12 **\$1,800 and a monthly recurring charge of \$1,200 for Service Order Admini-**  
13 **stration. Do you believe Mr. Williams has reviewed Exhibit 2 that was at-**  
14 **tached to your direct testimony?**

15  
16 A. No, I do not. It appears that Mr. Williams' review of the RLECs cost analysis  
17 was using Exhibit 1 attached to discovery. The non-recurring cost as shown on  
18 Exhibit 2 for Beresford is zero. The recurring costs as shown on Exhibit 2 for  
19 Beresford were \$135 per month. In order to show a causal relationship between  
20 demand and costs, Beresford assumed three ports per month at an average cost of  
21 \$45 per port.

22 The RLECs, including Beresford, calculated the average cost per port assuming  
23 each port would require three contacts with the service bureau. Given the low  
24 level of demand and the resulting lack of learning plateau, communications with  
25 the service bureau can be expected to be more cumbersome than in an environ-  
26 ment where routine processing of ports occurs.

27 Q. **Mr. Williams has eliminated all costs from the line entitled "Other Recurring**  
28 **Costs." Will you please identify what costs are represented on the line item**  
29 **on Exhibit 2 entitled "Other Recurring Costs"?**  
30

1 A. Yes. These are the costs associated with the RLEC personnel processing a port-  
2 ing order through multiple internal and external processes and systems. These  
3 costs would include receiving the LSR forms and reviewing the LSR for accuracy  
4 against the RLECs internal records and verifying that the LSRS are filled out in  
5 compliance with the Ordering and Billing Forum standards. If the LSRs are de-  
6 termined to be accurate and there are no conflicts for which the RLEC needs to  
7 contact the wireless provider on, the RLEC personnel can then send the new ser-  
8 vice provider a Firm Order Confirmation. Once the FOC has been sent to the new  
9 service provider, the RLEC will contact the SOA service bureau, the time that is  
10 included in the category. Internal work orders will be initiated, processed and fi-  
11 nalized in order to activate the unconditional ten digit trigger on the correct date,  
12 to test and verify calls are being properly routed to the ported number, to discon-  
13 nect the end-user and ported number from the switch, to verify that the number  
14 can not be reassigned on the switch and in the customer service records, update  
15 billing records, and complete performance measurement analysis.  
16 Based upon the multiple manual processes involved, the RLECs estimated five  
17 hours per port.

18 Q. **Do you have any other comments with regarding Mr. Williams' cost esti-**  
19 **mates?**

20  
21 A. Yes. In its reply to supplemental discovery, Western Wireless projected that each  
22 RLEC would experience porting demand. Yet, in Mr. Williams' cost exhibits, he  
23 fails to include, with the exception of Beresford, any monthly recurring costs as-  
24 sociated with porting activity. I have included porting related costs on the lines  
25 entitled "SOA Monthly Charge" and "Other Recurring Costs." In addition, if

1 Western Wireless' estimates of ports are correct as shown in Response to Inter-  
2 rogatory 13.f., there will be fewer RLEC access lines than are shown on the cost  
3 exhibits, resulting in a higher cost per line per month. (Western Wireless' Re-  
4 sponses to Interrogatories are attached to the Rebuttal Testimony of Steven E.  
5 Watkins.)

6 Q. **Will you please explain the RLECs' rationale for using DS1 direct connec-**  
7 **tions in the cost analysis?**

8  
9 A. Yes, I will. Currently, RLECs do not route local traffic outside of their exchange  
10 boundaries. With intermodal LNP, a call to a number ported to a wireless carrier  
11 will terminate, in most cases, at a point of interconnection or switch located out-  
12 side of an RLEC exchange. If an RLEC routes a call to such a ported number  
13 over current equal access Feature Group D facilities, the customer would receive  
14 a recording instructing the customer to redial the number using one plus the NPA-  
15 NXX. To route the call as a local call would require the use of direct connections  
16 to each wireless provider.

17 In addition, the specified means provided in interconnection agreements between  
18 the RLECs and Western Wireless to route local traffic between the RLECs and  
19 Western Wireless is through the use of direct connections.

20 Q. **Mr. Williams states that it is unclear that any of the costs included in this line**  
21 **item concerning transport costs are recoverable under the FCC's rules per-**  
22 **taining to recovery via a line item surcharge on telecommunications custom-**  
23 **ers. (p. 19: 6-8) Have you addressed this issue in your direct testimony filed**  
24 **on May 14, 2004?**

25  
26 A. Yes, I have addressed transport cost recovery on pages 17 and 18 of my direct tes-  
27 timony.

1 Q. **Did Mr. Williams address whether or not the Commission should grant a**  
2 **suspension or modification of the LNP requirement as implemented by the**  
3 **FCC pursuant to Section 251(f)(2)(A)(i) (significant adverse economic impact**  
4 **on telecommunications users generally) of the Act?**

5  
6 A. No, he did not. This omission from Mr. Williams' testimony is particularly tell-  
7 ing because the costs that are associated with LNP implementation, that would be  
8 passed on to end users in the form of an FCC end user surcharge or an increase in  
9 local rates, would create a significant adverse economic impact on users, and the  
10 public interest, convenience and necessity would not be served by the implemen-  
11 tation of LNP in rural areas of South Dakota.

12 Q. **In Mr. Williams' Testimony (p. 21: 5-7), there is a claim that little or no in-**  
13 **vestment would be avoided by delaying the implementation of number port-**  
14 **ability. Do you agree?**

15  
16 A. No. LNP investment requirements may change based on the outstanding issues  
17 pending at the FCC. For example, the FCC, in its November 10, 2003 "Further  
18 Notice of Proposed Rulemaking," sought input from the North America Number-  
19 ing Council ("NANC") on reducing the porting interval for intermodal porting.  
20 The FCC also requested NANC to provide any recommendations on an appropri-  
21 ate transition period. The Intermodal Porting Interval Issue Management Group  
22 ("IMG") was formed to address these issues for the FCC. Based upon IMG's  
23 analysis, it determined that shortening the porting interval to approximately two  
24 days was the best interval based from a cost/benefit analysis. The IMG also esti-  
25 mated that the industry would need approximately 24 months to implement this  
26 proposal.<sup>1</sup>

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<sup>1</sup> *NANC Report & Recommendation on Intermodal Porting Intervals*, Prepared for the NANC by the Intermodal Porting Interval Issue Management Group, May 3, 2004, at p. 4.

1 The IMG, in addressing rural telephone company impacts, stated that in order to  
2 support a shorter porting interval, service providers will need to change internal  
3 operating software and business practices and to implement mechanized systems  
4 and automated interfaces with other carriers. Based upon the IMG proposal, the  
5 exchange and approval of information on the local service request forms and the  
6 firm order confirmation forms would need to occur within a five-hour window in-  
7 stead of the current 24-hour window. Forms and processes used to exchange in-  
8 formation between carriers requiring manual intervention would need to be  
9 mechanized and automated to assure the five-hour standard could be met. I note  
10 that the IMG states that the FCC should recognize that this may cause economic  
11 impacts on rural telephone companies that may not be justified considering the  
12 size of the customer base and customer density.<sup>2</sup>

13 Thus, if the RLECs implement LNP before the porting interval and other ques-  
14 tions are resolved, they may utilize systems and interfaces that would have to be  
15 replaced once issues, like the porting interval, are addressed. This would, in ef-  
16 fect, result in a “double” LNP investment.

17 A suspension of the LNP requirement until after the FCC has decided the porting  
18 interval and other issues would allow RLECs to avoid the investment required to  
19 implement and modify systems and processes required under the current industry  
20 porting standard.

21 Q. What would be the timeframe required for the RLECs to fully implement,  
22 test, and place LNP into commercial service, if required to do so?  
23

---

<sup>2</sup> Id. at p. 25.

1     A.     Based upon my analysis of LNP implementation, it would take the RLECs three  
2           to six months to implement LNP depending on the number of switches, whether  
3           additional hardware and/or software needs to be installed, and the availability of  
4           support personnel.

5     Q.     **Does this conclude your testimony?**

6  
7     A.     Yes, it does.

CERTIFICATE OF SERVICE

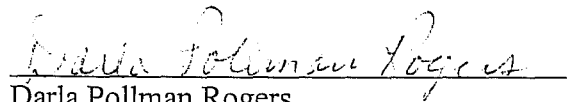
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wiczorek  
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Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

## Exhibit R1



LNP Exhibit 2 SD Companies  
Total Estimated LNP Non-recurring and Recurring Costs

## LNP Non-recurring Costs

Switch Upgrade Costs

Internal Business Procedure Changes

Inter-carrier Testing

Other Internal Costs

LNP Query set up

SOA Non-recurring set up charge

Customer Notification Costs

Total Non-recurring Costs excluding transport

Non recurring transport charges

Total Non-recurring Costs including transport

## LNP Monthly Recurring Costs

SOA Monthly Charge

LNP Query Costs per month

Other Recurring Costs

Total Recurring Monthly Costs excluding Transport

Transport

Total Recurring Monthly Costs including Transport

## Monthly Cost Calculations per line

Total Nonrecurring cost per month excluding transport amortized over five years

Total Nonrecurring cost per month including transport amortized over five years

Total cost per month excluding transport

Total cost per month including transport

Access Lines excluding Lifeline

LNP cost per line per month excluding transport

LNP cost per line per month including transport

LNP cost per line per month excluding transport with Surcharges and Taxes

LNP cost per line per month including transport with Surcharges and Taxes

Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04	Exhibit 2 filed 5-14-04	WWC 5A filed 5-28-04
Beresford	Beresford	Kennebec	Kennebec	Midstate	Midstate	RC/Roberts	RC/Roberts	Western Tel	Western Tel
\$ 16,612	\$ 16,612	\$ 47,979	\$ 47,979	\$ 82,110	\$ 68,160	\$ 29,900	\$ 29,360	\$ 145,987	\$ 145,987
\$ 11,962	\$ 11,962	\$ 20,426	\$ 20,426	\$ 3,229	\$ 3,229	\$ 15,318	\$ 15,318	\$ 8,589	\$ 8,589
\$ 5,299	\$ 5,299	\$ 4,088	\$ 3,000	\$ 4,247	\$ 4,247	\$ 4,915	\$ 4,915	\$ 1,970	\$ 2,652
\$ 20,723	\$ 15,000	\$ 25,061	\$ 15,000	\$ 19,474	\$ 15,000	\$ 22,319	\$ 15,000	\$ 19,062	\$ 15,000
\$ 190	\$ 190	\$ 190	\$ -	\$ 1,900	\$ 190	\$ 380	\$ 190	\$ 190	\$ 190
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 1,119	\$ 1,062	\$ 825	\$ 825	\$ 2,434	\$ 1,094	\$ 1,367	\$ 1,299	\$ 982	\$ 933
\$ 55,905	\$ 50,125	\$ 98,569	\$ 87,230	\$ 113,394	\$ 91,920	\$ 74,199	\$ 66,082	\$ 176,780	\$ 173,351
\$ 1,401	\$ 400	\$ 1,401	\$ -	\$ 3,870	\$ 400	\$ 2,801	\$ 800	\$ 1,401	\$ 400
\$ 57,306	\$ 50,525	\$ 99,970	\$ 87,230	\$ 117,264	\$ 92,320	\$ 77,000	\$ 66,882	\$ 178,181	\$ 173,751
\$ 135	\$ 30	\$ 90	\$ -	\$ -	\$ -	\$ 180	\$ -	\$ 135	\$ -
\$ 150	\$ 197	\$ 150	\$ -	\$ 1,500	\$ 619	\$ 300	\$ 292	\$ 150	\$ 148
\$ 293	\$ -	\$ 141	\$ -	\$ 788	\$ -	\$ 400	\$ -	\$ 134	\$ -
\$ 578	\$ 227	\$ 381	\$ -	\$ 2,288	\$ 619	\$ 880	\$ 292	\$ 419	\$ 148
\$ 1,926	\$ 118	\$ 4,837	\$ -	\$ 7,749	\$ 295	\$ 9,967	\$ 177	\$ 4,996	\$ 118
\$ 2,504	\$ 345	\$ 5,218	\$ -	\$ 10,037	\$ 914	\$ 10,847	\$ 469	\$ 5,415	\$ 266
\$ 1,222	\$ 1,096	\$ 2,155	\$ 1,907	\$ 2,480	\$ 2,010	\$ 1,623	\$ 1,445	\$ 3,866	\$ 3,791
\$ 1,253	\$ 1,105	\$ 2,186	\$ 1,907	\$ 2,564	\$ 2,019	\$ 1,684	\$ 1,463	\$ 3,896	\$ 3,799
\$ 1,800	\$ 1,323	\$ 2,536	\$ 1,907	\$ 4,768	\$ 2,629	\$ 2,503	\$ 1,737	\$ 4,285	\$ 3,939
\$ 3,757	\$ 1,450	\$ 7,404	\$ 1,907	\$ 12,601	\$ 2,933	\$ 12,531	\$ 1,932	\$ 9,311	\$ 4,065
1,418	1,418	735	735	4,762	4,762	2,037	2,037	1,080	1,080
\$ 1.27	\$ 0.93	\$ 3.45	\$ 2.60	\$ 1.00	\$ 0.55	\$ 1.23	\$ 0.85	\$ 3.97	\$ 3.65
\$ 2.65	\$ 1.02	\$ 10.07	\$ 2.60	\$ 2.65	\$ 0.62	\$ 6.15	\$ 0.95	\$ 8.62	\$ 3.76
\$ 1.46		\$ 3.97		\$ 1.15		\$ 1.41		\$ 4.56	
\$ 3.05		\$ 11.58		\$ 3.04		\$ 7.07		\$ 9.91	

## Exhibit R2

## AGREEMENT

### WIRELESS-WIRELINE NUMBER PORTABILITY

by and between

**Verizon Wireless**

and

**Beresford Municipal Telephone Company**

THIS WIRELESS-WIRELINE NUMBER PORTABILITY SERVICE AGREEMENT ("Agreement") by and between Cellco Partnership d/b/a Verizon Wireless (a Delaware general partnership) and the Verizon Wireless Entities (collectively "Verizon Wireless"), each having an office and principal place of business at 180 Washington Valley Road, Bedminster, New Jersey 07921, and **Beresford Municipal Telephone Company**, on behalf of itself and its Affiliates (collectively "Carrier"), with offices located at 101 North 3 Rd Street, Beresford, SD 57004-1796. Verizon Wireless and Carrier may be collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, the above named Parties wish to enter into an Agreement with each other and to be in compliance with the applicable rules and regulations of the Federal Communications Commission ("FCC Rules and Regulations").

WHEREAS, the Parties wish to enter into an Agreement to facilitate the ability of Customers to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement through Local Number Portability.

WHEREAS, the Parties wish to enter into an Agreement to establish practices and procedures to ensure that Customer requests to port numbers are achieved efficiently, with minimal delays, except as required to validate a port request.

THEREFORE, the Parties wish to enter into this Agreement on the following terms and conditions:

#### 1. TERM

This Agreement shall become effective in accordance with Section 34 ("Effective Date") and, except as otherwise provided in this Agreement, shall continue in full force and effect until either Party terminates the Agreement by providing notice of termination in writing to the other Party at least thirty (30) days in advance of such termination pursuant to the Notice provisions set forth in Section 18 of this Agreement. Upon termination, the Parties shall continue to provide Local Number Portability as may be required by Applicable Law.

#### 2. CIRCUMSTANCES OF DEFAULT

A Party shall be in default under this Agreement if such Party:

- 2.1 Becomes insolvent, liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for the relief of debtors, or initiates any proceeding seeking protection from its creditors; and/or

- 2.2 Violates any applicable laws, statutes, or other legal requirements with respect to this Agreement; and/or
- 2.3 Fails to perform any material term, condition, or covenant of this Agreement and such Party fails to cure such nonperformance within thirty (30) calendar days of receipt of written notice of such default from the non-defaulting Party ("Cure Period"). Upon expiration of said Cure Period, the non-defaulting Party shall have the right to seek applicable remedies under this Agreement. When a default cannot be reasonably cured within the Cure Period, the time for cure may be extended by agreement of the Parties for such period of time as may be reasonably necessary to complete such cure, provided the defaulting Party shall have proceeded promptly to cure such default and shall continue to prosecute such curing with due diligence.
- 2.4 Notices hereunder shall be given to the Notice address set forth in Section 18.

### 3. REMEDIES AND TERMINATION

- 3.1 In the event of default under this Agreement (and with respect to a default under Section 2.3, the Cure Period stated therein), the non-defaulting Party shall have the right, at its option, to suspend performance under this Agreement or to terminate this Agreement without further liability upon providing written notice of such termination to the defaulting party pursuant to the Notice provisions set forth in Section 18.
- 3.2 This Agreement may be affected by changes, modifications, orders, and rulings of regulatory bodies, including the FCC, to the extent competent jurisdiction otherwise exists. Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects the notifying Party's ability to perform its obligations under this Agreement. In the event a material modification is made to the obligations of a Party set forth in this Agreement, which materially affects the obligations of a Party hereunder, then either Party may terminate this Agreement pursuant to Section 1 of this Agreement. If neither Party exercises such a right of termination, and any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in applicable law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.
- 3.3 The rights set forth in Sections 2 and 3 of this Agreement are in addition to, and not in limitation of, any other right or remedy that a non-defaulting party may have at law or in equity.
- 3.4 Notices hereunder shall conform to the Notice provisions set forth in Section 18.

### 4. DEFINITIONS

Unless the context clearly indicates otherwise, when a term listed in these Definitions is used in the Agreement, the term shall have the meaning stated in these Definitions. A defined term intended to convey the meaning stated in these Definitions is capitalized

when used. Other terms that are capitalized, and not defined in these Definitions or elsewhere in the Agreement, shall have the meaning stated in the Act.

- 4.1 Act: The Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended.
- 4.2 Affiliate: Shall have the meaning set forth in the Act.
- 4.3 Agreement: This Agreement including all appendices attached hereto, orders by a Party that have been accepted by the other Party, future amendments, modifications and supplements made in accordance herewith.
- 4.4 Applicable Law: All effective laws, government regulations and government orders, applicable to each Party's performance of its obligations under this Agreement.
- 4.5 Assigned Telephone Number: A telephone number that is assigned to a Customer that can originate and terminate telephone calls through the Public Switched Telephone Network. An Assigned Telephone Number may be a suspended telephone number unless that telephone number was suspended for fraud but, for avoidance of doubt, will not include a telephone number that has been disconnected.
- 4.6 Commercial Mobile Radio Service ("CMRS"): Shall be as defined by the FCC.
- 4.7 Customer Proprietary Network Information ("CPNI"): Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. Section 222.
- 4.8 Customer: An end user and subscriber to the services provided by either of the Parties.
- 4.9 Customer Information: CPNI of a Customer and any other non-public, individually identifiable information about a Customer or, if applicable, the purchase by a Customer of the services or products of a Party.
- 4.10 Customer Service Records ("CSR"): The records that contain the identity, service address, rate plan or plans, and other information on the Customer.
- 4.11 Electronic Data Interface ("EDI"): A data interface for exchange of information between providers.
- 4.12 End Office: A switching entity used in performing, originating and terminating functions for calls to or from Customers. As used in this Agreement, the term End Office shall be used in reference to End Office Switches used by Carrier and other wireline carriers.
- 4.13 Intercarrier Communications Process ("ICP"): The communication process between the OSP and the NSP, which validates the Customer information and initiates and completes the port request. The ICP includes the exchange of the LSR/LR.
- 4.14 Local Number Portability ("LNP"): Shall have the meaning set forth in the Act.
- 4.15 Local Service Request ("LSR"): Forms containing information about a Customer who desires to port a telephone number to the NSP. A sample LSR and

descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG").

- 4.16 Location Routing Number ("LRN"): Ten-digit number assigned to a switch or point of interconnection used for routing calls.
- 4.17 Metropolitan Statistical Areas ("MSA"): An MSA denotes a large urban population market as designated by the U.S. government.
- 4.18 Mobile Switching Center ("MSC"): A CMRS carrier's switching entity used to perform originating, transit and terminating functions for calls to and from end users, also referred to as Mobile Telecommunications Switching Office or "MTSO."
- 4.19 New Service Provider ("NSP"): The new provider that will provide service to the Customer and to whom the Customer ports its Assigned Telephone Number.
- 4.20 Number Portability Administration Center ("NPAC"): A neutral third party center that processes porting information from and disseminates that information to telecommunication carriers. The NPAC processes the NSP subscriber port request and downloads the LRN associated with the subscriber ported telephone number to local number portability databases.
- 4.21 Old Service Provider ("OSP"): The provider providing service to the Customer at the time the Customer requests porting of the Assigned Telephone Number.
- 4.22 Verizon Wireless Entities: Any FCC-licensed entity doing business as Verizon Wireless and/or directly or indirectly controlled by Cellco Partnership.

## 5. INFORMATION

The Parties acknowledge that Customer Information may be exchanged between the Parties and may be subject to legal restrictions on its use or disclosure, including without limitation laws relating to CPNI. The Parties may only obtain and use such restricted Customer Information in accordance with applicable laws and the restrictions contained in this Agreement. Prior to initiating a port request with the OSP, the NSP shall obtain consent from the Customer that permits the OSP to release to and/or to confirm with the NSP the information about the Customer that was sought by the NSP in the port request process. The NSP shall indemnify, defend, and hold harmless the OSP from and against any liabilities, claims, or demands, including costs, and expenses (including reasonable attorneys' fees) arising from or relating to any failure on the part of the NSP to obtain from the Customer consent for the OSP to release/confirm information about the Customer that was or is sought by the NSP in the port request process.

## 6. NUMBER PORTABILITY

### 6.1 Scope

The Parties shall provide LNP on a reciprocal basis pursuant to this Agreement in accordance with FCC Rules and Regulations as may be prescribed from time to time. "Delay" or "denial" of ports between Parties shall only occur in the event a Party is unable to complete the validation of those validation elements expressly set forth in Appendix A.

### 6.2 Procedures for Providing LNP

The Parties will follow the porting intervals applicable to wireline-wireline porting more specifically described in the North American Numbering Council's Local Number Portability Administration Selection Working Group, dated April 25, 1997, Appendix E, Section 7.1, Figure 1 until such time as the FCC adopts an LNP provisioning process flow and porting intervals for Inter-Service Provider LNP applicable between wireline and wireless carriers, at which time the Parties will follow LNP provisioning process flow and porting intervals established by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF for porting of Assigned Telephone Numbers.

- 6.2.1 For purposes of this Section 6, "Party A" refers to a Party whose Customer elects to become a Customer of the other Party ("Party B") and to utilize the original telephone number(s) corresponding to the service(s) it previously received from Party A, in conjunction with the service(s) it will now receive from Party B. Upon Party B receiving authorization from the Customer in accordance with Applicable Law and sending an LNP order to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.
- 6.2.2 When a telephone number is ported out of the Carrier network, Carrier will remove all line-based features and calling card(s) associated with the ported number(s) from its Line Information Database ("LIDB"). Reactivation of the line-based calling card in another LIDB, if applicable, is the responsibility of Verizon Wireless or the Customer.
- 6.2.3 When a Customer's number is ported between the Parties, Carrier will follow the 911 Guidelines recommended by the National Emergency Number Association ("NENA") with regard to emergency services databases.
- 6.2.4 When Party A ports telephone numbers of its Customer to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.
- 6.2.5 NXX codes shall be portable in accordance with FCC Rules and Regulations except those permitted to be designated non-portable by the same FCC Rules and Regulations. The Parties, moreover, shall ensure that all switches, whether currently owned or hereafter acquired, are upgraded to facilitate LNP to the extent required by FCC Rules and Regulations.
- 6.2.6 Numbers can be ported to and from carriers whose licensed areas overlap and where the receiving carrier has the ability to provide service, as applicable. Porting numbers under these circumstances does not require modification and/or changes to current transport agreements.

### 6.3 LNP Ordering Procedures

#### 6.3.1 Numbers to be ported from Carrier to Verizon Wireless

6.3.1.1 Orders for LNP shall be submitted by VZW to Carrier using an LSR either via web GUI, FAX or EDI. Verizon Wireless shall submit LSRs to port numbers only on behalf of itself and entities for which it has authority to act.

6.3.1.2 Instructions for submitting an LSR to Carrier are available via **[TBD – identify where instructions are found]**.

#### 6.3.2 Numbers to be ported from Verizon Wireless to Carrier

6.3.2.1 Orders for LNP shall be submitted by Carrier to Verizon Wireless utilizing validation information as required by Verizon Wireless and as applied to all other wireline carriers.

6.3.2.2 Instructions for submitting a validation request to Verizon Wireless will be provided via the Verizon Wireless process agreed to by the Parties.

#### 6.4 Procedures for Providing LNP Through Full NXX Code Migration

When a Party has activated an entire NXX code for a single Customer and such Customer chooses to receive service from the other Party, the Parties shall follow the procedures set forth in the Industry Number Committee ("INC") Guideline 95-0407-0008 Central Office Code (NXX) Assignment Guidelines Section 7.

#### 6.5 Procedures for Providing LNP Using Type 1 Numbers

Upon request of Verizon Wireless, the Parties will work together to migrate telephone numbers assigned to Type 1 trunks to the Verizon Wireless switch.

#### 6.6 Procedures for Requesting LNP Capability

Either Party may submit a written request that the other Party upgrade any of its End Offices/MSCs to become LNP capable.

6.6.1 If either Party desires to have LNP capability deployed in an End Office/MSC of the other Party that is not currently capable, the requesting Party shall issue an LNP request to the other Party. The Party receiving such request will respond to the requesting Party within ten (10) calendar days of receipt of the request with a date for which LNP will be available in the requested End Office/MSC. The Party receiving the request shall proceed to provide for LNP in compliance with the procedures and timelines set forth in FCC Rules and Regulations.

6.6.2 The Parties will each be responsible for updating the LERG to reflect the LNP capabilities of their respective End Offices/MSCs.

6.7 The Parties acknowledge and agree that telecommunications system interruptions or service outages may occur which may delay the processing of port requests. The Parties shall use best reasonable efforts to avoid such interruptions or outages and with respect to scheduled outages or maintenance



activities shall work with each other to schedule them so as to minimize disruptions to subscribers. Scheduled interruptions/maintenance should adhere to standard industry agreed upon maintenance windows for the NPAC.

## **7. TROUBLE, MAINTENANCE AND REPAIR**

7.1 Both Parties agree to work expeditiously to resolve any issues associated with porting a Customer between the two Parties. Before either Party reports a trouble condition, that Party must first use commercially reasonable efforts to isolate the trouble to the other Party's actions or facilities. In order to facilitate trouble reporting and resolution, the Parties shall provide the trouble reporting contact information, per Section 22 of this Agreement. It is the responsibility of each Party to maintain the accuracy of its contact information and to notify the other Party of changes and modifications.

7.2 As part of the commitments set forth in Section 7.1 of this Agreement, each Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.

## **8. DIRECTORY LISTINGS**

This Agreement does not govern or authorize the inclusion of listings in directories that may be published by a Party. Verizon Wireless shall not indicate on an LSR to be submitted to Carrier that it seeks for a ported number to be listed in a Carrier directory. Any listings shall be subject to separate agreement.

## **9. FRAUD**

The Parties agree to cooperate in good faith with each other to investigate, minimize, and take corrective action in cases of fraud related to number portability. Each Party assumes responsibility for all fraud related to number portability associated with its Customers and accounts. Neither Party shall bear responsibility for, and shall have no obligation to investigate or make adjustments to, the accounts of the other Party in cases of fraud by the other Party's Customers or other third parties.

## **10. COSTS**

The Parties to this Agreement will be responsible for their own costs incurred in implementing this Agreement.

## **11. USE OF TRADEMARKS**

The Parties agree that they will not use the name, service marks or trademarks of the other Party or any of its affiliated companies in any manner whatsoever without such Party's specific written consent, which consent the other Party may grant or withhold in its sole discretion. Neither Party is licensed hereunder to conduct business under any logo, trademark, service or trade name (or any derivative thereof) of the other Party. Neither Party shall issue any press release or other publicity concerning this Agreement without the prior written consent of the other Party, which consent the other Party may grant or withhold in its sole discretion. Neither Party may imply any direct or indirect affiliation with or sponsorship or endorsement of it or its services or products by the other Party. Any violation of this Section 11 shall be considered a material breach of this Agreement.

**12. COMPLIANCE WITH LAWS**

The Parties shall comply with all federal, state and local laws applicable to their performance hereunder. Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.

**13. FORCE MAJEURE**

Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure results from causes beyond its reasonable control ("Conditions"), whether or not foreseeable by such Party. Such Conditions include, but are not limited to, acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts. If any such Condition occurs, the Party delayed or unable to perform ("Delayed Party"), upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis during the continuance of such Condition (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period); provided, however, that the Party so affected shall use commercially reasonable efforts to avoid or remove such Condition and both Parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease. Nothing in this Agreement shall require the non-performing Party to settle any labor dispute except as the non-performing Party, in its sole discretion, determines appropriate.

**14. ASSIGNMENT**

This Agreement or any right or interest under this Agreement may not be assigned or transferred nor may any obligation under this Agreement be delegated without the prior written consent of the other Party, which consent may not be unreasonably withheld. Any attempted assignment or delegation in violation of this Section 14 shall be void and ineffective and constitute default of this Agreement.

**15. BINDING EFFECT**

This Agreement shall inure to the benefit of, and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

**16. INDEMNIFICATION**

16.1 Each Party ("Indemnifying Party") shall indemnify, defend, and hold harmless the other Party ("Indemnified Party"), the Indemnified Party's Affiliates, (for purposes of this Section 16, Affiliates shall include Verizon Wireless Entities) and the directors, officers and employees of the Indemnified Party and the Indemnified Party's Affiliates, from and against any and all liabilities, claims, demands, suits, actions, settlements, judgments, fines, penalties, injuries, damages, or losses including costs (including court costs) and expenses (including reasonable attorneys' fees) ("Claims") that arise out of bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person to the extent such injury, death, damage, destruction or loss, was proximately caused by the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party, the Indemnifying Party's Affiliates, or the directors, officers, employees, agents, or contractors (excluding the Indemnified Party) of the Indemnifying Party or the Indemnifying Party's Affiliates, in relation

to a port request under this Agreement, including a Claim where there is (a) a claim, demand, suit or action by a person who is not a Party, (b) a settlement with, judgment by, or liability to, a person who is not a Party, or (c) a fine or penalty imposed by a person who is not a Party (collectively referred to as a "Third Party Claim").

- 16.2 A Party seeking to be indemnified hereunder shall follow, and the Indemnifying Party's obligations under Section 16.1 shall be conditioned on following, the Indemnification Process set forth in this Section 16.2.

16.2.1 The Indemnified Party: (a) shall provide the Indemnifying Party with prompt, written notice of any Claim after becoming aware thereof (including a statement of facts known to the Indemnified Party related to the Claim and an estimate of the amount thereof); (b) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Claim; (c) shall not consent to any settlement or compromise of a Third Party Claim without the written consent of the Indemnifying Party; (d) shall permit the Indemnifying Party to assume the defense of a Third Party Claim (including, except as provided below, the compromise or settlement thereof) at the Indemnifying Party's own cost and expense, provided, however, that the Indemnified Party shall have the right to approve the Indemnifying Party's choice of legal counsel.

16.2.2 If the Indemnified Party fails to comply with Section 16.2.1 with respect to a Claim, to the extent such failure shall have a material adverse effect upon the Indemnifying Party, the Indemnifying Party shall be relieved of its obligation to indemnify, defend and hold harmless the Indemnified Party with respect to such Claim under this Agreement.

16.2.3 Subject to 16.2.4 and 16.2.5, below, the Indemnifying Party shall have the authority to defend and settle any Third Party Claim.

16.2.4 With respect to any Third Party Claim, the Indemnified Party shall be entitled to participate with the Indemnifying Party in the defense of the Claim if the Claim requests equitable relief or other relief that could affect the rights of the Indemnified Party. In so participating, the Indemnified Party shall be entitled to employ separate counsel for the defense at the Indemnified Party's expense. The Indemnified Party shall also be entitled to participate, at its own expense, in the defense of any Claim, as to any portion of the Claim as to which it is not entitled to be indemnified, defended and held harmless by the Indemnifying Party.

16.2.5 In no event shall the Indemnifying Party settle a Third Party Claim or consent to any judgment with regard to a Third Party Claim without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. In the event the settlement or judgment requires a contribution from or affects the rights of an Indemnified Party, the Indemnified Party shall have the right to refuse such settlement or judgment with respect to itself and, at its own cost and expense, take over the defense against the Third Party Claim, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify or hold harmless the Indemnified Party against, the Third Party Claim for any amount in excess of such refused settlement or judgment.

16.2.6 The Indemnified Party shall, in all cases, assert any and all provisions in applicable Tariffs and Customer contracts that limit liability to third persons as a bar to, or limitation on, any recovery by a third-person claimant.

16.2.7 The Indemnifying Party and the Indemnified Party shall offer each other all reasonable cooperation and assistance in the defense of any Third Party Claim.

16.3 Each Party agrees that it will not impede or bring any action against the other Party, the other Party's Affiliates, or any of the directors, officers or employees of the other Party or the other Party's Affiliates, based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by the other Party or the other Party's Affiliate and that arises out of performance of this Agreement.

16.4 Each Party's obligations under this Section 16 shall survive expiration, cancellation or termination of this Agreement.

## 17. RELATIONSHIP OF THE PARTIES

17.1 Neither Party undertakes by this Agreement or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. The relationship of the Parties under this Agreement shall be that of independent contractors and is a non-exclusive relationship. Nothing contained in this Agreement is intended to give rise to an employment relationship, partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of employers, partners or joint venturers.

17.2 Except for provisions herein expressly authorizing a Party to act for another Party, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party in writing, which permission may be granted or withheld by the other Party in its sole discretion.

17.3 Each Party shall have sole authority and responsibility to hire, fire, compensate, supervise, and otherwise control its employees, agents and contractors. Each Party shall be solely responsible for payment of any Social Security or other taxes that it is required by Applicable Law to pay in conjunction with its employees, agents and contractors, and for withholding and remitting to the applicable taxing authorities any taxes that it is required by Applicable Law to collect from its employees.

17.4 A Party may use a contractor of the Party (including, but not limited to, an Affiliate of the Party) to perform the Party's obligations under this Agreement, provided that a Party's use of a contractor shall not release the Party from any duty or liability to fulfill the Party's obligations under this Agreement.

## 18. NOTICES

Unless otherwise specified in this Agreement, all notices required under this Agreement shall be given in writing. All notices shall be given by personal delivery, express delivery service with next Business Day delivery, confirmed facsimile (with copy delivered by personal delivery, express delivery service with next Business Day delivery or certified mail, return receipt requested) or certified mail, return receipt requested to the person(s) specified below or to such other addresses as a Party may designate by written notice to the other Party. If sent by the United States Postal Service mail, such notices shall be deemed received on the earlier of actual receipt or five (5) business days following deposit. For the other forms of notice, notice will be deemed given as of (a) where there is personal delivery of the notice, the date of actual receipt, (b) where the notice is sent via express delivery service for next Business Day delivery, the next Business Day after the notice is sent, and (c) where the notice is sent via facsimile telecopy, if the notice is sent on a Business Day and before 5 PM in the time zone where it is received, on the date set forth on the telecopy confirmation, or if the notice is sent on a non-Business Day or if the notice is sent after 5 PM in the time zone where it is received, the next Business Day after the date set forth on the telecopy confirmation.

Notices shall be sent to:

To Verizon Wireless:     Verizon Wireless  
                                 Port Center  
                                 300 River Rock Blvd  
                                 Murfreesboro, TN 37128  
                                 Attn: Port Center Director  
                                 Fax: 1-615-372-2425

With a copy to:             Verizon Wireless  
                                 180 Washington Valley Road  
                                 Bedminster, New Jersey 07921  
                                 Attention: Assistant General Counsel – Procurement &  
                                 Technology  
                                 Fax: (908) 306-7766

If to Carrier:                **[provide carrier notice information]**

#### **19.     WAIVER**

The delay or failure of either Party to enforce any of the provisions of this Agreement, or exercise in any respect any right or remedy provided for in this Agreement or at law or in equity, or to require performance of any of the provisions of this Agreement, or to exercise any option which is provided under this Agreement shall not be deemed a waiver of any such provisions, rights, remedies or options under this Agreement.

#### **20.     SEVERABILITY**

If any of the provisions of this Agreement shall be invalid or unenforceable, then such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement. The entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.

**21. LIMITATION OF LIABILITY**

Except as otherwise provided in this Agreement, neither Party shall be liable to the other Party, the other Party's Customers or to any other person in connection with the performance or nonperformance under this Agreement, including but not limited to, any claims for any indirect, incidental, consequential, special damages, including (without limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

**22. ESCALATION PROCEDURES**

The Parties agree to provide each other with trouble reporting contacts and procedures via their respective web sites or other means agreed to by the Parties. In addition, the Parties agree to provide each other with escalation contacts and procedures via their respective web sites or other means agreed to by the Parties. Should a Party encounter any problems with respect to compliance with this Agreement that cannot be resolved through the trouble reporting contacts and procedures, then a Party may utilize the escalation contacts set forth in Appendix B ("Trouble Reporting General Contact Information") and the procedures set forth in Appendix C ("Carrier Escalation Procedures") and Appendix D ("Carrier Trouble Ticket Detail"). However, this Section 22 shall not operate in limitation or derogation of Sections 2 or 3 of this Agreement or the notice requirements set forth therein. In the event either Party fails to provide contact and procedures for trouble reporting and escalation, the Parties may utilize the Notice provisions set forth in Section 18.

In addition to the escalation procedures set forth in this Section 22, either Party may seek resolution of a dispute arising under this Agreement by pursuing any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the FCC or other regulatory body, or a court of competent jurisdiction; provided, however, that a Party pursuing any such remedy shall first notify the other Party of the dispute in writing through the Notice provisions set forth in Section 18 of this Agreement.

**23. ARTICLE HEADINGS**

The headings of the Articles are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

**24. CHOICE OF LAW**

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction.

**25. AMENDMENTS, MODIFICATIONS AND SUPPLEMENTS**

Amendments, modifications and supplements to this Agreement are allowed, provided that (a) all such amendments, modifications and supplements shall be in writing signed by authorized representatives of both Parties; and (b) all such amendments, modifications and supplements shall by reference incorporate this Agreement in its entirety and identify the specific sections or paragraphs contained herein which are amended, modified or supplemented; and (c) all such amendments, modifications and supplements shall not be construed to adversely affect vested rights or causes of action

which have accrued prior to the effective date of such amendment, modification or supplement.

**26. ENTIRE AGREEMENT**

This Agreement together with its appendices constitutes the entire agreement between the Parties and cancels all contemporaneous or prior agreements, whether written or oral, with respect to the subject matter of this Agreement.

**27. RESERVATION OF RIGHTS**

Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party hereby expressly reserves, its rights to (a) challenge the lawfulness of this Agreement and any provision of this Agreement; (b) seek changes in this Agreement (including, but not limited to, changes in rates, charges and the porting services that must be offered) through changes in Applicable Law; and (c) challenge the lawfulness and propriety of, and to seek to change, any Applicable Law, including, but not limited to any rule, regulation, order or decision of the FCC, other regulatory body or a court of applicable jurisdiction. Nothing in this Agreement shall be deemed to limit or prejudice any position a Party has taken or may take before the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry fora. The provisions of this Section 27 shall survive the expiration, cancellation or termination of this Agreement.

**28. SURVIVAL**

The rights, liabilities and obligations of a Party for acts or omissions occurring prior to the expiration, cancellation or termination of this Agreement, the rights, liabilities and obligations of a Party under any provision of this Agreement regarding confidential information, indemnification or defense, or limitation or exclusion of liability, and the rights, liabilities and obligations of a Party under any provision of this Agreement which by its terms or nature is intended to continue beyond or to be performed after the expiration, cancellation or termination of this Agreement, shall survive the expiration, cancellation or termination of this Agreement.

**29. TERRITORY**

Verizon Wireless shall include a list of states in which its affiliates or other related entities operate and in which Verizon Wireless seeks to port Assigned Telephone Numbers with Carrier. With respect to Carrier this Agreement shall apply only to the territories in the states listed in Appendix E that are served by the Carrier affiliates listed in Appendix F. The foregoing shall not be construed to require that the porting between the Parties which is contemplated by this Agreement be memorialized by, or otherwise reduced to, an agreement under 47 U.S.C. §251 or otherwise construed to confer jurisdiction on states, including their regulatory agencies, over such porting unless otherwise conferred by Applicable Law.

**30. THIRD PARTY BENEFICIARIES**

Except as expressly set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein shall create or be construed to provide any third persons (including, but not limited to, Customers or contractors of a Party) with any rights (including, but not limited to, any third-party beneficiary rights) hereunder. Except as expressly set forth in this Agreement, a Party shall have no liability under this Agreement to the Customers of the other Party or to any other third person.

## 31. WARRANTIES

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED, OR TO BE PROVIDED, UNDER THIS AGREEMENT AND THE PARTIES DISCLAIM ANY OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE WARRANTIES AGAINST INFRINGEMENT, AND WARRANTIES ARISING BY TRADE CUSTOM, TRADE USAGE, COURSE OF DEALING OR PERFORMANCE, OR OTHERWISE.

## 32. INTELLECTUAL PROPERTY

- 32.1 Except as expressly stated in this Agreement, this Agreement shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by either Party. Except as expressly stated in this Agreement, neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual property right, of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.
- 32.2 Except as stated in Section 32.4, neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its Affiliates (for purposes of this Section 32.4, Affiliates shall include Verizon Wireless Entities) or Customers based on or arising from any Third Party Claim alleging or asserting that the provision or use of any service, facility, arrangement, or software by either Party under this Agreement, or the performance of any service or method, either alone or in combination with the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any Party or third person. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.
- 32.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY EACH PARTY OF THE OTHER'S SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.
- 32.4 The Parties agree that the services provided hereunder shall be subject to the terms, conditions and restrictions contained in any applicable agreements (including, but not limited to software or other intellectual property license agreements) between the Parties and their respective vendors. The Parties agree to advise each other, directly or through a third party, of any such terms, conditions or restrictions that may limit a Party's use of a service provided by the other Party that is otherwise permitted by this Agreement. Upon written request of a Party, to the extent required by Applicable Law, the Party receiving such request will use its best efforts, as commercially practicable, to obtain intellectual property rights from its vendor to allow the requesting Party to use the service in the same manner as the Party receiving such request that are coextensive with its intellectual property rights, on terms and conditions that are equal in quality to



the terms and conditions under which it has obtained its intellectual property rights. The Party making such request shall reimburse the other Party for the cost of obtaining such rights.

### 33. CONFIDENTIALITY

33.1 As used in this Section 33, "Confidential Information" means the following information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with, or anticipation of, this Agreement:

33.1.1 books, records, documents and other information disclosed pursuant to this Agreement;

33.1.2 any forecasting information provided pursuant to this Agreement;

33.1.3 Customer Information (except to the extent that (a) the Customer information is published in a directory, (b) the Customer information is disclosed through or in the course of furnishing a Telecommunications Service, such as a Directory Assistance Service, Operator Service, Caller ID or similar service, or LIDB service where such disclosure is otherwise authorized by applicable agreements or law, or (c) the Customer to whom the Customer Information is related has authorized the Receiving Party to use and/or disclose the Customer Information);

33.1.4 information related to specific facilities or equipment (including, but not limited to, cable and pair information);

33.1.5 any information that is in written, graphic, electromagnetic, or other tangible form, and marked at the time of disclosure as "Confidential" or "Proprietary"; and

33.1.6 any information that is communicated orally or visually and declared to the Receiving Party at the time of disclosure, and by written notice with a statement of the information given to the Receiving Party within ten (10) days after disclosure, to be "Confidential or "Proprietary."

Notwithstanding any other provision of this Agreement, a Party shall have the right to refuse to accept receipt of information that the other Party has identified as Confidential Information pursuant to Sections 33.1.5 and 33.1.6.

33.2 Except as otherwise provided in this Agreement, the Receiving Party shall:

33.2.1 use the Confidential Information received from the Disclosing Party only in performance of this Agreement; and

33.2.2 using the same degree of care that it uses with similar confidential information of its own (but in no case a degree of care that is less than commercially reasonable), hold Confidential Information received from the Disclosing Party in confidence and restrict disclosure of the Confidential Information solely to those of the Receiving Party's Affiliates (for purposes of this Section 33, Affiliates shall include Verizon Wireless Entities) and the directors, officers, employees, agents and contractors of the Receiving Party and the Receiving Party's Affiliates, that have a need to receive such Confidential Information in order to perform the Receiving Party's obligations under this Agreement. The Receiving

Party's Affiliates and the directors, officers, employees, agents and contractors of the Receiving Party and the Receiving Party's Affiliates, shall be required by the Receiving Party to comply with the provisions of this Section 33 in the same manner as the Receiving Party. The Receiving Party shall be liable for any failure of the Receiving Party's Affiliates or the directors, officers, employees, agents or contractors of the Receiving Party or the Receiving Party's Affiliates, to comply with the provisions of this Section 33.

- 33.3 The Receiving Party shall return or destroy all Confidential Information received from the Disclosing Party, including any copies made by the Receiving Party, within thirty (30) days after a written request by the Disclosing Party is delivered to the Receiving Party, except for (a) Confidential Information that the Receiving Party reasonably requires to perform its obligations under this Agreement, and (b) one copy for archival purposes only.
- 33.4 Unless otherwise agreed, the obligations of Sections 33.2 do not apply to information that:
- 33.4.1 was, at the time of receipt, already in the possession of or known to the Receiving Party free of any obligation of confidentiality and restriction on use;
  - 33.4.2 is or becomes publicly available or known through no wrongful act of the Receiving Party, the Receiving Party's Affiliates, or the directors, officers, employees, agents or contractors of the Receiving Party or the Receiving Party's Affiliates;
  - 33.4.3 is rightfully received from a third person having no direct or indirect obligation of confidentiality or restriction on use to the Disclosing Party with respect to such information;
  - 33.4.4 is independently developed by the Receiving Party;
  - 33.4.5 is approved for disclosure or use by written authorization of the Disclosing Party (including, but not limited to, in this Agreement); or
  - 33.4.6 is required to be disclosed by the Receiving Party pursuant to Applicable Law, provided that the Receiving Party shall have made commercially reasonable efforts to give adequate notice of the requirement to the Disclosing Party in order to enable the Disclosing Party to seek protective arrangements.
- 33.5 Notwithstanding the provisions of Sections 33.1 through 33.4, the Receiving Party may use and disclose Confidential Information received from the Disclosing Party to the extent necessary to enforce the Receiving Party's rights under this Agreement or Applicable Law. In making any such disclosure, the Receiving Party shall make reasonable efforts to preserve the confidentiality and restrict the use of the Confidential Information while it is in the possession of any person to whom it is disclosed, including, but not limited to, by requesting any governmental entity to whom the Confidential Information is disclosed to treat it as confidential and restrict its use to purposes related to the proceeding pending before it.

- 33.6 The Disclosing Party shall retain all of the Disclosing Party's right, title and interest in any Confidential Information disclosed by the Disclosing Party to the Receiving Party. Except as otherwise expressly provided in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not limited to, under any patent, trademark or copyright), nor is any such license to be implied solely by virtue of the disclosure of Confidential Information.
- 33.7 The provisions of this Section 33 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to the use, or protection of the confidentiality of, CPNI provided by Applicable Law.
- 33.8 Each Party's obligations under this Section 33 shall survive expiration, cancellation or termination of this Agreement.

#### 34. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement through their authorized representatives on the date or dates below to be effective when executed by both Parties.

CARRIER

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

VERIZON WIRELESS  
(Continued on next page)

Allentown SMSA Limited Partnership d/b/a Verizon Wireless  
     By Bell Atlantic Mobile Systems of Allentown, Inc., Its General Partner  
 Anderson CellTelCo d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Athens Cellular, Inc. d/b/a Verizon Wireless  
 Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Bell Atlantic Mobile of Asheville, Inc. d/b/a Verizon Wireless  
 Bell Atlantic Mobile of Rochester, LP d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Binghamton MSA Limited Partnership d/b/a Verizon Wireless  
     By NYNEX Mobile of New York Limited Partnership, Its General Partner  
     By Upstate Cellular Network, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Bismarck MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Boise City MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 California RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
     By Pinnacles Cellular, Inc., Its General Partner  
 Cellco Partnership d/b/a Verizon Wireless  
 Cellular Inc. Network Corporation d/b/a Verizon Wireless  
 Chicago 10 MHz LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Chicago SMSA LP d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Colorado 7 – Saguache Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 CommNet Cellular License Holding LLC d/b/a Verizon Wireless  
     By Cellular Inc. Financial Corporation, Its Sole Member  
 CyberTel Cellular Telephone Company d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Dallas MTA, LP d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Des Moines MSA General Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Dubuque MSA Limited Partnership d/b/a Verizon Wireless  
     By Southwestco Wireless, LP, Its General Partner  
     By Southwestco Wireless, Inc., Its General Partner  
 Duluth MSA Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Minnesota, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless  
 Fayetteville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Fresno MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Gadsden CellTelCo Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Gila River Cellular General Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its Managing General Partner

Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Grays Harbor-Mason Cellular Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

GTE Mobilnet of Florence, Alabama Incorporated d/b/a Verizon Wireless

GTE Mobilnet of Fort Wayne Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Indiana RSA #6 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Santa Barbara Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Terre Haute Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

GTE Mobilnet of Texas RSA #17 Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of Texas RSA #21 Limited Partnership d/b/a Verizon Wireless  
 By San Antonio MTA LP, Its General Partner  
 By Verizon Wireless Texas, LLC, Its General Partner

GTE Mobilnet of the Southwest LLC d/b/a Verizon Wireless  
 By Cellco Partnership, Its Sole Member

GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless

Hamilton Cellular Telephone Company d/b/a Verizon Wireless  
 By New Par, Its General Partner  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho 6 – Clark Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Idaho RSA No. 1 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Illinois RSA 1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Illinois RSA 6 and 7 Limited Partnership d/b/a Verizon Wireless  
 By Illinois SMSA Limited Partnership, Its General Partner  
 By Cellco Partnership, Its General Partner

Illinois SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Indiana RSA #1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Indiana RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Iowa 8 – Monona Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

Iowa RSA 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Iowa RSA 10 General Partnership  
 By Cellco Partnership d/b/a Verizon Wireless, Its Manager

Iowa RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Missouri Valley Cellular, Inc. d/b/a Verizon Wireless  
 By CommNet Cellular, Inc., Its Managing Agent

Modoc RSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Muskegon Cellular Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

NC-2 LLC d/b/a Verizon Wireless

New Hampshire RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

New Mexico RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, its Sole Member

New Mexico RSA 6-I Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Mexico RSA No. 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Par d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York RSA No. 3 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
 By AirTouch North Dakota, LLC, Its General Partner

Northeast Pennsylvania SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Northern New Mexico Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile of New York, LP d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Olympia Cellular Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Omaha Cellular Telephone Company d/b/a Verizon Wireless  
     By AirTouch Nebraska, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless of the East LP, Its General Partner  
         By Verizon Wireless of Georgia LLC, Its General Partner  
             By Cellco Partnership, Its Sole Member  
 Oxnard-Ventura-Simi Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 Pennsylvania 3 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania 4 Sector 2 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA 1 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (I) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pennsylvania RSA No. 6 (II) Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsburgh SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pittsfield Cellular Telephone Company d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Platte River Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Portland Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pueblo Cellular, Inc. d/b/a Verizon Wireless  
 Redding MSA Limited Partnership d/b/a Verizon Wireless  
     By Sacramento Valley Limited Partnership, Its General Partner  
         By AirTouch Cellular, Its General Partner  
 Rockford MSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 RSA 7 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Iowa RSA 7, LLC, Its Managing Partner  
         By Cellco Partnership, Its Sole Member  
 Sacramento Valley Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 San Antonio MTA, L.P. d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 San Isabel Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Sanborn Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Sangre De Cristo Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Seattle SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Sioux City MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner

Smoky Hill Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Southern & Central Wireless, LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Southern Indiana RSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Southwestco Wireless LP d/b/a Verizon Wireless  
     By Southwestco Wireless Inc., Its Managing Partner  
 Spokane MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Springfield Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
         By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Joseph CellTelCo d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Syracuse SMSA Limited Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 The Great Salt Flats Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Topeka Cellular Telephone Company, Inc. d/b/a Verizon Wireless  
 Tuscaloosa Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Upstate Cellular Network d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Utah RSA 6 Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Verizon Wireless (VAW) LLC d/b/a Verizon Wireless  
 Verizon Wireless of the East LP d/b/a Verizon Wireless  
     By Verizon Wireless of Georgia LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Verizon Wireless Personal Communications LP d/b/a Verizon Wireless  
 Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Vermont RSA Limited Partnership d/b/a Verizon Wireless  
     By NYNEX Mobile Limited Partnership 1, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Virginia RSA 5 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Virginia 10 RSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Wasatch Utah RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Washington, DC SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Waterloo MSA Limited Partnership d/b/a Verizon Wireless  
     By Southwestco Wireless LP, Its General Partner  
         By Southwestco Wireless Inc., Its General Partner



Wyoming 1 – Park Limited Partnership d/b/a Verizon Wireless  
By CommNet Cellular Inc., Its Managing Agent

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## LOCAL NUMBER PORTABILITY OPERATIONS AGREEMENT

This Local Number Portability Operations Agreement ("Agreement") is entered into by and between Western Wireless Corporation ("Western") and \_\_\_\_\_ ("\_\_\_\_\_"). Western and \_\_\_\_\_ are each individually a "Party" and are together the "Parties" to this Agreement.

WHEREAS, the above named Parties wish to enter into an Agreement with each other in compliance with applicable laws and regulations.

WHEREAS, the Parties wish to enter into an Agreement to facilitate the ability of Customers to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement through Local Number Portability.

WHEREAS, the Parties wish to enter into an Agreement to establish practices and procedures to ensure that Customer requests to port numbers are achieved efficiently and with minimal delays.

THEREFORE, the Parties wish to enter into this Agreement on the following terms and conditions:

### 1. DEFINITIONS

Any term not specifically defined here shall be given the meaning provided for in FCC Orders governing LNP.

- 1.1. Act: Means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended and interpreted in the rules and regulations of the FCC.
- 1.2. Affiliate: Means any entity, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with a Party hereto.
- 1.3. Agreement: Means this Local Number Portability Operations Agreement, including all appendices attached hereto, future amendments, modifications and supplements made in accordance herewith.
- 1.4. CORBA is an acronym for: Common Object Request Broker Architecture.
- 1.5. Competitive Local Exchange Carrier ("CLEC") is defined in the Act.
- 1.6. Commercial Mobile Radio Service ("CMRS") is as defined in the Act.
- 1.7. Customer: An active end user and subscriber of the OSP who desires to receive service from the NSP using the same telephone number that is associated with the service(s) the subscriber receives from the OSP.
- 1.8. Customer Service Records ("CSR") are the records that contain the identity, service address, rate plan or plans, and other information on the Customer.

- 1.9. Electronic Data Interface ("EDI") is a data interface for exchange of information between providers.
- 1.10. Federal Communications Commission ("FCC"): Means the regulatory, governing body directing the activities associated with this Agreement.
- 1.11. Inter-carrier Communications Process ("ICP"): The communication process between the OSP and the NSP, which validates the customer information and initiates and completes the port request. The ICP includes the exchange of the LSR/LR.
- 1.12. Local Exchange Routing Guide ("LERG") is a Traffic and Routing Administration maintained industry table identifying switches with their assigned telephone numbers.
- 1.13. Local Number Portability ("LNP"): The ability of a Customer to retain existing telephone numbers without impairment of quality, reliability, or convenience when switching from one of the Parties to this Agreement to the other Party to this Agreement pursuant to FCC Rules.
- 1.14. Local Response ("LR"): A form for responding to an LSR. A sample LR and descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG") of the Ordering and Billing Forum..
- 1.15. Local Service Request ("LSR"): Forms containing information about a Customer who desires to port a telephone number to the NSP. A sample LSR and descriptions of the fields therein can be found in the Local Service Ordering Guidelines ("LSOG") of the Ordering and Billing Forum.
- 1.16. Location Routing Number ("LRN"): Ten-digit number assigned to a switch or point of interconnection used for routing calls.
- 1.17. Metropolitan Statistical Areas ("MSA"): An MSA denotes a large urban population market as designated by the U.S. government.
- 1.18. New Service Provider ("NSP"): The new provider that will provide service to Customer and to whom Customer ports its telephone number.
- 1.19. Number Portability Administration Center ("NPAC"): A neutral third party center that processes porting information from and disseminates that information to telecommunications carriers. The NPAC processes the NSP subscriber port request and downloads the LRN associated with the subscriber ported telephone number to local number portability databases.
- 1.20. Old Service Provider ("OSP"): The provider providing service to the customer at the time the customer requests porting of the MDN.
- 1.21. Rate Center: Geographic areas that utilize a common geographical point of reference for distance measurements, called a rating-point, which is defined by Vertical and Horizontal Coordinates.

- 1.22. Working Telephone Number: A telephone number that is assigned to a Customer that can originate and terminate telephone calls through the Public Switched Telephone Network.

## 2. PURPOSE OF AGREEMENT

The parties desire to enter into this Agreement consistent with all applicable FCC rules and regulations.

## 3. TERM

This Agreement shall become effective May 24, 2004 and, except as otherwise provided in this Agreement, shall continue in full force and effect until either Party terminates the Agreement by providing notice of termination in writing to the other Party at least sixty (60) in advance of such termination pursuant to the Notice provisions set forth in Section 19 of this Agreement. Upon termination, the Parties shall continue to provide LNP if required by applicable laws and regulations.

## 4. NUMBER PORTING

### 4.1. Scope

The Parties shall provide LNP and port Working Telephone Numbers on a reciprocal basis pursuant to this Agreement. The Parties will open all switches and associated NPA-NXXs to support number portability in the serving areas identified in Appendix A.

NXX codes shall be portable in accordance with FCC Rules and Regulations except those permitted to be designated non-portable by the same FCC Rules and Regulations.

### 4.2. Procedures for Providing LNP

- 4.2.1. The Parties shall ensure that all switches, whether currently owned or hereafter acquired, are upgraded to facilitate LNP to the extent required by FCC Rules and Regulations. The Parties shall, as required by FCC orders, disclose upon request any technical limitations that would prevent LNP in any connecting office.
- 4.2.2. The Parties will follow the LNP provisioning process flow and porting intervals recommended by the North American Numbering Council (NANC) for Inter-Service Provider LNP between wireline and wireless carriers. This includes the recommendations of the Local Number Portability Administration Work Group to adopt the Inter-Service Provider LNP Operations Flows and the same porting intervals until the FCC provides further confirmation or modification of these processes.
- 4.2.3. The Parties will follow the LNP ordering procedures established at the OBF for porting of Assigned Telephone numbers.
- 4.2.4. When a telephone number is ported out of the OSP's network, the OSP will, if applicable, remove all line based features and calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if applicable, is the responsibility of the NSP or the Customer.

- 4.2.5. When a telephone number is ported out of the OSP's network, the OSP will follow the 911 Guidelines recommended by the National Emergency Number Association ("NENA") with regard to emergency services databases.
- 4.2.6. When an OSP ports Customer telephone number(s) to the NSP, the OSP shall implement the ten-digit trigger feature where it is available. When the OSP receives the port request, the unconditional trigger shall be applied to the Customer's telephone number prior to the due date and time identified in the port request. When the unconditional trigger is not available, the Parties shall use standard NPAC concurrence procedures.
- 4.2.7. LNP Software is required to be in place and tested prior to any order submission.
- 4.2.8. Reserved numbers may be ported if there is at least one Working Telephone Number in the group.

## **5. LIMITATIONS OF SERVICE**

A telephone number can only be ported to a NSP if the Rate Center associated with the NPA-NXX is within the NSP's license area or authorized service area. A telephone number can be ported from a wireline to CMRS Party if the Rate Center associated with the NPA-NXX is within the CMRS provider's license area. A telephone number can be ported from a CMRS to a wireline Party if the Rate Center associated with the NPA-NXX is within the wireline service provider's authorized service area. The Parties recognize that certain NXXs may be non-portable, including those NXXs assigned for internal testing and official use, and any NXXs required to be designated as non-portable by the rules and regulations of the FCC.

## **6. SERVICE DESCRIPTION**

Ordering: Both Parties agree to follow the provisions set forth in Appendix D for the exchange of information required to port a customer and the processing of LNP orders.

- 6.1 Pre-order: The Parties agree that a NSP must obtain the affirmative consent of a Customer to authorize the porting of any Working Telephone Number(s) and the disclosure of such Customer's information between the Parties as necessary to facilitate LNP processing.
- 6.2 After receiving a request from a Customer to port telephone number(s), the New Service Provider may request the CSR of the Customer from the Old Service Provider.
- 6.3 Order: The Parties agree that a NSP must submit an order for LNP to the OSP using a 'Local Service Request' (LSR).
- 6.4 All numbers on a LSR that are requested to be ported must reside within the same LRN within an NPAC region. If a customer is requesting to port numbers from multiple LRNs within an NPAC region, a separate LSR must be submitted for all numbers in each LRN within an NPAC region.
- 6.5 Type 1 Number Porting: The Parties agree to migrate all telephone numbers assigned to Type 1 trunks to the Western Wireless mobile switching center utilizing the LNP process. The entire

block(s) of numbers associated with each Type 1 trunk will be incorporated as part of a single LSR. The Parties will work together to accomplish the Type 1 number porting within 15 days of the issuance date of the LSR.

#### Port Processing:

- 6.6 After the NSP sends a LSR to the OSP, the OSP shall determine whether Customer's information in the LSR is correct and whether the port can be completed by the requested date and time. The minimum due date and time (DD/T) intervals for all submitted LSRs is identified in Appendix D. The OSP shall, respond within the Port Request Processing intervals identified in Appendix D and shall send a response to the NSP notifying the NSP whether it can or cannot complete the port by the time requested by the NSP. If the information in the LSR is inaccurate or the port cannot be completed in the requested time, the OSP's response message shall notify the NSP that it denies the request and provide the appropriate reason codes from those listed in the Wireless Intercarrier Communications Interface Specification for Number Portability ("WICIS"), Version 2.0. All reason codes and reason code details should be associated with the respective telephone numbers in error, as applicable. The OSP should conduct a full review of each request, identifying all telephone numbers with suspected errors prior to returning an invalid response. Both parties agree to work expeditiously to resolve incorrect or conflicting information. The NSP can then make the necessary changes and send the LSR back to the OSP for verification. This process shall continue until the OSP accepts the port request and sends a confirmation to the NSP or until the OSP determines that it is incapable of completing the port request and populates the remarks field in the port request indicating this determination to the NSP. If the OSP determines that it is incapable of completing the port or if the OSP fails to respond to the WPR sent by the NSP, the NSP may contact the OSP's Porting Administration Group or Trouble Reporting Contact to ascertain the problem and determine if a remedy is possible and/or whether the NPAC process can begin.
- 6.7 The NSP shall not generate a Subscription Version Create (SV-Create) until it receives a Confirmation from the OSP indicating that the porting process may continue.
- 6.8 NPAC Process: After the OSP has confirmed that it can complete a requested port, the OSP and the NSP shall send an SV-Create regarding the port to the regional NPAC covering the Rate Center associated with the ported number's NPA-NXX. Under no circumstances is the SV-Create to be sent to the NPAC prior to receipt of a valid confirmation response unless otherwise agreed to by the Parties to this Agreement. The SV-Create must be sent for all telephone numbers on the WPR and the date and time must match the Due Date and Time on the LSR sent by the OSP. The Parties shall also update translations in their Central Office(s) from which a telephone number has been ported prior to the date on which the LERG changes become effective so that calls to the ported telephone number may be redirected to the switch of the NSP via route indexing. Mutual NPAC concurrence is required prior to completion of the service request.

After the OSP has confirmed that it can complete a requested port, the Parties shall make all reasonable efforts to complete a request within the time specified in Appendix D, or by the NSP's requested date, whichever is later. Request due date and time should be set to allow for at least the minimum processing time allowed under the guidelines. If the OSP fails to complete a

port by the time specified herein, the NSP may place the telephone number in Conflict with NPAC. If the port has not been completed during the Conflict timer parameter, the NSP can take the port out of Conflict and Activate the telephone number(s).

#### Deactivation:

- 6.9 Deactivation: With respect to all services and features related to the Customer ported telephone number, the OSP shall deactivate them within its Network and Billing Systems by or on the requested due date specified in the associated port request.

#### Return of Numbers:

- 6.10 All Working Telephone Numbers that have been ported will be released when the NSP ceases providing service to those ported numbers. Release of telephone numbers will be based on the procedures set forth in the FRS and IIS of the Number Portability Administration Center. Each telephone number will be released only after the number has been aged by the NSP for 90 days from the day that service to the telephone number was terminated. An aging interval includes any announcement treatment period, as well as blank telephone number intercept period. For disconnected numbers, the NSP will comply with the NPAC disconnect and snapback process as described in applicable publications of the North American Numbering Council.

## 7. TROUBLE, MAINTENANCE, AND REPAIR

- 7.1 Operation Support Systems: Both Parties agree to work expeditiously to resolve any issues associated with porting a customer between the two Parties. Before either Party reports a trouble condition, that Party must first use reasonable efforts to isolate the trouble to the other Party's actions or facilities. In order to facilitate trouble reporting and resolution, the Parties shall provide the trouble reporting contact information, per Appendix C. It is the responsibility of each Party to maintain the accuracy of their contact information and to notify the other Party of changes or modifications.
- 7.2 Trouble: Both Parties shall use commercially reasonable efforts to resolve and/or isolate trouble within 24 hours for single customer affecting issues. Both Parties shall use commercially reasonable efforts to resolve and/or isolate trouble within 6 hours for multiple customer affecting issues.
- 7.3 Network Maintenance: Each Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.
- 7.4 Modifications: Each Party will proactively test their new switch features and service offerings to ensure there are no problems.

**9. PRICING/COSTS**

The Parties to this Agreement are responsible for their own costs associated with this Agreement or the porting process, unless otherwise specified in this Agreement.

**10. TESTING**

- 10.1 Each Party shall designate a single point of contact (SPOC) to schedule and perform required tests. These tests shall be performed during a mutually agreed time frame and must conform to industry portability testing and implementation criteria in force in the NPAC region.
- 10.2 Both Parties shall be certified by the regional NPAC prior to scheduling inter-company testing of LNP.
- 10.3 Both Parties shall exchange information identified in Appendix B prior to the commencement of testing.

**11. FRAUD**

The Parties agree to cooperate in good faith with each other to investigate, minimize, and take corrective action in cases of fraud related to number portability.

**12. USE OF TRADEMARKS**

The Parties agree that they will not use the name, service marks or trademarks of the other Party or any of its affiliated companies in any manner whatsoever, without such Party's specific written consent. Neither Party is licensed hereunder to conduct business under any logo, trademark, service or trade name (or any derivative thereof) of the other Party. Neither Party shall issue any press release or other publicity concerning this Agreement without the prior consent of the other Party.

**13. COMPLIANCE WITH LAWS**

The Parties shall comply with all federal, state and local laws applicable to their performance hereunder.

**14. FORCE MAJEURE**

Neither Party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by reason of acts of God, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, or any other circumstances beyond the reasonable control and not involving any fault or negligence of the Delayed Party ("Condition"). If any such Condition occurs, the Party delayed or unable to perform ("Delayed Party"), upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis during the continuance of such Condition (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period); provided, however, that the Party so affected



shall use its best reasonable efforts to avoid or remove such Condition and both Parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease.

**15. ASSIGNMENT**

This Agreement may not be assigned or transferred without the prior written consent of the other Party, which consent may not be unreasonably withheld. Notwithstanding the prior sentence, no prior written consent shall be required for a Party to assign or transfer this Agreement to any subsidiary, Affiliate, parent or successor in interest, or to any entity which acquires all or substantially all of its assets and agrees to be bound by the terms and conditions of this Agreement, provided however, that the assigning Party shall notify the other Party of such assignment or transfer as soon as reasonably practical.

**16. BINDING EFFECT**

This Agreement shall inure to the benefit of, and shall be binding upon the Parties hereto and their respective successors and permitted assigns .

**17. INDEMNIFICATION**

17.1 Each Party shall indemnify and hold harmless the other from any liabilities, claims, or demands, including costs, expenses and reasonable attorney's fees ("Claims") made by third parties resulting from the negligence and/or willful misconduct of a Party, its employees and agents in the performance of this Agreement.

17.2 A Party seeking to be indemnified hereunder will provide the other Party with prompt, written notice of any Claim covered by this indemnification and will cooperate appropriately with the indemnifying Party in the defense thereof. The indemnifying Party shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of each indemnified Party, such consent not to be unreasonably withheld or delayed.

**18. RELATIONSHIP OF THE PARTIES**

Neither Party undertakes by this Agreement or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. Nothing contained in this Agreement is intended to give rise to an employment relationship, partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of employers, partners or joint venturers.

**19. NOTICES**

Unless otherwise specified in this Agreement, all notices required under this Agreement shall be given in writing. All notices shall be given by personal delivery, overnight courier, confirmed facsimile or

certified mail, return receipt requested to the person(s) specified below or to such other addresses as a Party may designate by written notice to the other Party. If sent by overnight courier or by the United States Postal Service mail, such notices shall be deemed received on the earlier of actual receipt or five (5) business days following deposit.

Notices shall be sent to:

For Western Wireless Corporation:

For Carrier B:

Regulatory Department  
3650 131<sup>st</sup> Avenue, S.E., Suite 400  
Bellevue, Washington 98006

(Insert Name & Address)

Email: [Regulatory@wwireless.com](mailto:Regulatory@wwireless.com)

Email:

Fax: 425-586-8118

Fax:

## 20. WAIVER

The waiver or failure of either Party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.

## 21. SEVERABILITY

This Agreement shall be subject to all applicable federal, state and local laws, court orders, agency orders, rules and regulations of all governmental agencies and authorities. In the event this Agreement, any of the provisions of this Agreement, or any of the activities under this Agreement, are determined to be inconsistent with or contrary to any applicable federal, state or local laws, court orders, agency orders, rules, or regulations, the latter shall control and any inconsistent term or condition of this Agreement shall terminate without any additional liability attaching to either Party. If the Agreement lawfully can be continued, it is commercially practicable to do so, and the intent of the Parties can be effectuated without the stricken provision, then the Agreement shall continue as amended and the Parties agree to negotiate any such necessary amendments. If the Agreement lawfully can be continued, it is commercially practicable to do so, and the intent of the Parties can be effectuated, but only by further modification of the Agreement, the Parties may so modify the Agreement by executing an appropriate amendment to this Agreement; if the Parties choose not to so modify this Agreement, then this Agreement shall terminate without any additional liability attaching to either Party and further performance shall be excused.

## 22. Limitation of Liability

Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for indirect, incidental, consequential, special damages, including (without

limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort.

## **23. ESCALATION PROCEDURES**

The Parties shall agree to a single point of contact in each company who shall be notified in the event a Party encounters a post-porting issue(s) or a case of suspected breach of this agreement. This action should precede actions by a Party under Section 24 Dispute Resolution. Once a Party institutes Escalation Procedures under this Section, all Parties shall refrain for three (3) days from taking any action under Section 24. The points of contact for each Party are as follows:

For Carrier A:

(Insert Name & Address)

For Carrier B:

(Insert Name & Address)

## **24. DISPUTE RESOLUTION**

### **24.1 General Provisions**

- a. Without limitation of the Parties' right to bring a dispute otherwise within the jurisdiction of a regulatory agency before such agency or unless otherwise required by law, the Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, in the event of a dispute, claim or controversy arising under this Agreement ("Dispute"), the affected Party shall resolve the Dispute as provided herein.
- b. At the written request of a Party to invoke the procedures hereunder, each Party shall appoint within five (5) days of the request a knowledgeable, responsible representative to meet and negotiate in good faith to resolve a Dispute. Parties may be represented by counsel to assist in and/or conduct such negotiations. The discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery and production, which shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise admissible, be admitted in evidence in the arbitration or lawsuit.
- c. If the foregoing negotiations do not resolve the Dispute within sixty (60) days of the initial written request, either Party may serve upon the other Party by certified mail a written demand that the Dispute be arbitrated, specifying in reasonable detail the nature of the Dispute to be submitted to arbitration in accordance with Section 23.2, below. The demand, effective upon receipt, shall be made within a reasonable time after the Dispute, has arisen. In no event shall

the demand for arbitration be made more than one year after the underlying cause of action arises.

- d. The arbitration hearing shall commence within forty-five days after the demand for arbitration. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings.
- e. Notwithstanding the Dispute Resolution provisions set forth in Section 23, the provisions in this Agreement addressing Severability as set forth in Section 21 and the provisions allowing for termination as set forth in Section 1.2 take precedence. If the Agreement is terminated any initial negotiations or arbitration in progress shall cease and become moot.

#### 24.2 ARBITRATION.

- a. Agreement to Arbitrate Disputes. Except as set forth in Section 23.1 above, the Parties agree that in the event of any Dispute, such Dispute shall be resolved exclusively by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof. The Federal Arbitration Act, 9 U.S.C. Secs. 1-15, not state law, shall govern the arbitrability of all Disputes.
- b. Selection of Arbitrator. The Parties further agree that they will ask the American Arbitration Association administrator in the area in which LNP is being provided, to provide to each Party to the Dispute a list of five (5) proposed arbitrators qualified to decide the controversy and who are experienced in telecommunications law. Within seven (7) days of receipt of this list, each Party to the Dispute will cross off names of proposed arbitrators the Party does not wish to use, leaving at least two candidates on the list, will number the remaining names in the order of preference, and will return the annotated list to the administrator. The administrator will select an arbitrator from the modified lists of preferences. The Parties will accept the administrator's selection of the Arbitrator.
- c. Discovery. Discovery shall not be permitted in such arbitration except as allowed by the rules of AAA or such other arbitration agency selected by the Parties pursuant to Section 23.2(a), or as otherwise agreed to by the Parties.
- d. Arbitration Award or Decision. The Parties agree that the arbitrator shall have no power or authority to make awards or issue orders of any kind except as permitted by this Agreement and substantive law, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. The arbitrator's decision shall follow the plain meaning of this Agreement and the relevant documents. The arbitrator's award shall be final and binding and may be enforced in any court of competent jurisdiction. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator.

#### 25. ARTICLE HEADINGS

The headings of the Articles are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

26. CHOICE OF LAW AND JURISDICTION

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the state in which LNP is being provided, without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction.

27. AMENDMENTS

Amendments, modifications and supplements to this Agreement are allowed provided: (a) all such amendments, modifications and supplements shall be in writing signed by authorized representatives of both Parties, and (b) all such amendments, modifications and supplements shall by reference incorporate this Agreement in its entirety and identify the specific sections or paragraphs contained herein which are amended, modified or supplemented, and (c) all such amendments, modifications and supplements shall not be construed to adversely affect vested rights or causes of action which have accrued prior to the Effective Date of such amendment, modification or supplement.

28. ENTIRE AGREEMENT

This Agreement together with its exhibits constitutes the entire agreement between the Parties and cancels all contemporaneous or prior agreements, whether written or oral, with respect to the subject matter of this Agreement. No modifications shall be made to this Agreement unless in writing and signed by authorized representatives of the Parties.

29. SIGNATURES

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement through their authorized representatives.

WESTERN WIRELESS CORPORATION

CARRIER B

\_\_\_\_\_  
(Signature of Officer or Authorized Agent)

\_\_\_\_\_  
(Signature of Officer or Authorized Agent)

\_\_\_\_\_  
(Printed Name of Officer or Authorized Agent)

\_\_\_\_\_  
(Printed Name of Officer or Authorized Agent)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

## **Appendix A - Agreement Serving Areas**

## Exhibit R3

# Trading Partner Profile for Porting between Sprint and <Trading Partner>

C O N T A C T	Item	Sprint	<Trading Partner>
	Effective Date		
	Primary contact name	Porting Center	
	Contact description	Porting Center	
	Phone number #1	Tbd	
	Phone number #2		
	FAX number	813-273-3403 (will change 3Q03)	
	Email address		
	Other		
	Note: The primary contact is also assumed to be the first point of contact for profile changes.		
	Secondary contact name	Network Operations Center	
	Contact description	Network Operations Center	
	Phone number #1	800-892-2888	
	Phone number #2	813-273-3440	
	FAX number	813-273-3570	
	Email address	Netops@tsiconnections.com	
	Other	Hotline@tsiconnections.com	

O P E R A T I O N S	Item	Sprint	<Trading Partner>
	... Common ...		
	Operating Company No. (OCN)	See following list of OCNs	
	Administrative OCN	6664	
	Wireless or Wireline	Wireless or Wireline	
	Holiday Days (mm/dd/yy)	Standard NPAC holiday schedule	
	Holiday time begin (hh:mm)	17:00 EST on business day before	
	Holiday time end (hh:mm)	8:00 EST on business day after	
	... for Test ...		
	Service Provider ID (SPID)	Primary: 9990, Secondary: 7778	
	LSMS SPID	7777	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WICIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	Monday through Friday	
	Business day begin (hh:mm)	7:00 CST	
	Business day end (hh:mm)	16:00 CST	
	... for Production ...		
	Service Provider ID (SPID)	6664	
	LSMS SPID	6661	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WICIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	24x7 except NPAC maintenance hours	
	Business day begin (hh:mm)		
	Business day end (hh:mm)		



C O R B A	Item	Sprint	<Trading Partner>	
	... for Test ...			
	Porting Method: Primary, Secondary, N/A	Current, Telcordia SMG 4.0 & 4.1, Future = SMG 4.2 (~Sep, 2003)		
	ICP Package/Application ("send to")	SMG 4.0/4.2: 205.174.182.182 SMG 4.1: 205.174.188.227		
	ICP Physical Server ("receive from")	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229		
	Failover ICP Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228		
	SOA Application	SMG 4.0/4.2: 205.174.182.181 SMG 4.1: 205.174.188.226		
	SOA Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228		
	Failover SOA Server	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229		
	Application Port Information	29990 (setup as "2" + SPID)		
	Naming Service / IOR	Static IP (or N/A)		
	DLCI	N/A		
	LDAP Provider	N/A		
	Security Requirements	N/A		
	Firewall Requirements	Allow TCP and UDP traffic		
	SSL Requirements	N/A		
	Proprietary Requirements	N/A		
	Service IDL version	N/A (Currently at 2.0 ??)		
	Implementation OMG standard compliant?	Yes		
	... for Test OMG CORBA Standards Supported ...			
Vendor	Product Name/Version	OMG CORBA Version	IIOP Version	
Borland	CORBA			
... for Production ...				
Porting Method: Primary, Secondary, N/A	Current, Production = SMG 4.0 Future = SMG 4.1 (mid-July) SMG 4.2 (~October, 2003)			
ICP Package/Application ("send to")	SMG 4.0: 205.174.185.139			
ICP Physical Server ("receive from")	SMG 4.0: 205.174.185.237			
Failover ICP Server	SMG 4.0: 205.174.185.236			
SOA Application	SMG 4.0: 205.174.185.138			
SOA Server	SMG 4.0: 205.174.185.236			
Failover SOA Server	SMG 4.0: 205.174.185.237			
Application Port Information	29990 (setup as "2" + SPID)			
Naming Service / IOR	Static IP (or N/A)			
DLCI	N/A			
LDAP Provider	N/A			
Security Requirements	N/A			
Security Requirements	N/A			
Firewall Requirements	Allow TCP and UDP traffic			

	SSI Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A (Currently at 2.0 ??)	
	Implementation OMG standard compliant?	Yes	
	... for Test OMG CORBA Standards Supported ...		
	Vendor	Product Name/Version	OMG CORBA Version
	Borland	CORBA	IIOP Version

F A X	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	813-273-3403	
	Backup FAX number	Tbd	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	Tbd	
	Backup FAX number	Tbd	

E D I	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	

O T H E R	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Queue Name, Queue Manager, and a channel	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		

Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Que Name, Que Manager, and a channel	
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The parties agree that information contained in the Trading Partner Profile is operational in nature and subject to change. The parties agree to make every effort to give the other party 30 days notice of any changes to its information.

### Sprint OCNs

OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:
4058	4060	4061	4064	4065	4066	4098	4099
6032	6664	6982	8440	8441	8442	8443	8444
8445	8446	8447	8448	8449	8450	8451	8452
8453	8454	8455	8456	8457	8458	8459	8460
8461	8462	8463	8564	8566	8567	8568	8570
8571	8572	8574	8575				

## Information Required for Logging Trouble Tickets

### Sprint PCS:

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

### Trading Partner:

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

## Porting Validation Standards

### Information Required for Port Validation:

#### Sprint PCS:

Last Name or Business Name

Zip Code

SSN or Tax ID or Acct. No.

MDN

If corporate liable - a password or pin number.

#### Trading Partner:

## Porting Business Rules

### Exhibit E

#### Sprint PCS:

- Complex Ports – Sprint PCS will accept only single line ports. Multiline ports must be submitted as multiple single line ports.
- Resellers – Sprint PCS will accept port requests on behalf of our resellers, however all validation is based on the resellers' processes.

#### Trading Partner:

- TBD

## **WIRELINE TRADING PARTNER PROFILE**

### **Table of Contents**

**Part A –Trading Partner Profile**

**Part B – General Contact Information and Trouble Reporting Contact Information**

**Part C – Trouble Ticket Detail**

**Part D – Porting Validation Standards**

**Part E – Affiliate Lists**

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**Part A**  
**Trading Partner Profile**

**For Verizon Wireless:**

Company Name – Verizon Wireless (Verizon Wireless Affiliates are identified in Part E hereto)  
Administrative OCN – G056

**OCN LIST FOR VERIZON  
WIRELESS**

STATE	OCN	STATE	OCN
AL	6804	MT	6564
AR	6805	NE	5807
AZ	6572	NC	6324
CA	6006	ND	6568
CO	6567	NH	6386
CT	6388	NV	6458
DC	6402	NJ	6391
DE	6393	NY	6959
FL	6502	NM	6573
GA	6540	OH	6025
HI	6516	OK	5813
IA	6570	OR	6523
ID	6565	PA	6392
IL	6333	RI	6389
IN	6725	SC	6398
KS	6532	SD	6569
KY	6500	TN	6673
LA	6505	TX	6506
ME	6386	UT	6571
MA	6387	VA	6827
MD	6395	VT	6390
MS	6396	WV	6394
MO	5814	WA	6246
MN	5816	WI	6508
MI	6003	WY	6566

Verizon Wireless Service Order Activation System SPID – 6006  
 Verizon Wireless Local Service Management System SPID – 0572, 6827

Address – Port Center  
 300 River Rock Blvd.  
 Murfreesboro, TN 37128  
 Country – USA

For Wireline Carrier B:

Company Name: [Wireline Carrier B to provide list of Affiliates on Part B]

[Wireline Carrier B to insert OCNs with associated states here and to complete items on the table below]

Address: [insert address]  
 [insert address]  
 Country: USA

CONTACT	Item	Verizon Wireless	Wireline Carrier B
	Effective Date		
	Note: The above contact is also assumed to be the first point of contact for profile changes.		
	Contact name for Wireline Carriers	Verizon Wireless Port Center	
	Contact description	Port Center - General Information	
	Phone number	1-800-488-2007 (not available until 11/24/03)	

OPERATIONAL	Item	Verizon Wireless	Wireline Carrier B
	... Common information for testing and production environments ...		
	Administrative OCN	G056	
	Administrative Authorized Exchange Carrier Name (if applicable)	EBAW	
	Holiday Days (List Days)	N/A	
	Holiday time begin (hh:mm)	N/A	
	Holiday time end (hh:mm)	N/A	
... for Testing ...			

	Service Provider SOA ID (SPID)	6006	
	LSMS SPID	0572, 6827	
	WPR / LSR Version ID	Preference to latest industry-supported version. WPR is for WLS-WLN porting, LSR is for WLN-WLS.	
	WPRR / FOC Version ID	Preference to latest industry-supported version.	
	Time Zone (PST, MST, CST, EST)	Coordinated per Time Zone, per contact information in Part B.	
	Business days (Sun, Mon, etc.)	Testing to be coordinated per contact information in Part B	
	Business day begin (hh:mm)	Testing to be coordinated per contact information in Part B	
	Business day end (hh:mm)	Testing to be coordinated per contact information in Part B	
	... for Production ...		
	Service Provider SOA ID (Verizon Wireless SPID)	6006	
	LSMS SPID	0572, 6827	
	WPR / LSR Version ID	LSOG (most current version) WPR is for WLS-WLN porting, LSR is for WLN-WLS.	
	WPRR / FOC Version ID	LSOG (most current version)	
	Time Zone (PST, MST, CST, EST)	24x7x365	
	Business days (Sun, Mon, etc.)	24x7x365	
	Business day begin (hh:mm)		
	Business day end (hh:mm)		

C	Item	Verizon Wireless	Wireline Carrier B
O	... for Testing ...		
R	<b>Porting Method:</b> Primary,	Current, Test Env = Telcordia SMG 4.2.0.50 (WICIS 2.x)	
B	Secondary, N/A		
A	ICP Package/Application ("send to")	SMG 4.2: 205.174.188.227	
	ICP Physical Server ("receive from")	SMG 4.2: 205.174.188.229	
	Failover ICP Server	SMG 4.2: 205.174.188.228	
	SOA Application	SMG 4.2: 205.174.188.226	



SOA Server	SMG 4.2: 205.174.188.229	
Failover SOA Server	SMG 4.2: 205.174.188.229	
Application Port Information	Test Env 2 = 26233	
Naming Service / IOR	Static IP (or N/A)	
DLCI (Frame Relay usage)	N/A	
LDAP Provider	N/A	
Security Requirements	N/A	
Firewall Requirements	Allow TCP and UDP traffic	
SSL Requirements	N/A	
Proprietary Requirements	N/A	
Service IDL version	N/A	
Implementation OMG standard compliant?	Yes	
... for Testing OMG CORBA Standards Supported ...		
Verizon Wireless		Wireline Carrier B
Vendor	Borland	Vendor
Verizon Wireless		Wireline
Product Name/Version	CORBA	Product Name/Version
OMG CORBA Version	Corba IDL 2.1	OMG CORBA Version
IIOP Version		
... for Production ...		
Porting Method: Primary, Secondary, N/A	Current Production = SMG 4.2	
ICP Package/Application ("send to")	SMG 4.2: 205.140.9.27 205.140.9.29	
ICP Physical Server ("receive from")	SMG 4.2: 205.140.9.17 205.140.9.19	
Failover ICP Server	SMG 4.2: 205.140.9.16 205.140.9.18	
SOA Application	SMG 4.2: 205.140.9.26 205.140.9.28	
SOA Server	SMG 4.2: 205.140.9.16 205.140.9.18	
Failover SOA Server	SMG 4.2: 205.140.9.17 205.140.9.19	
Application Port Information	26232 (setup as "2" + SPID)	
Naming Service / IOR	Static IP (or N/A)	
DLCI (Frame Relay usage)	N/A	
LDAP Provider	N/A	
Security Requirements	N/A	
Security Requirements	N/A	

Firewall Requirements	Allow TCP and UDP traffic	
SSL Requirements	N/A	
Proprietary Requirements	N/A	
Service IDL version	N/A	
Implementation OMG standard compliant?	Yes	
... for Production OMG CORBA Standards Supported ...		
Verizon Wireless		Wireline Carrier B
Vendor	Borland	Vendor
Verizon Wireless Product Name/Version	CORBA	Wireline Product Name/Version
OMG CORBA Version	Corba IDL 2.1	OMG CORBA Version

F A X	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, Low Tech Interface, LTI		
	Fax number (machine printed forms)	1-813-209-5983	
	Fax number (hand printed forms)	1-813-209-5982	
	... for Production ...		
	Porting Method: Primary, Secondary, Low Tech Interface, LTI		
	Fax number (machine printed forms)	1-813-209-6201	
	Fax number (hand printed forms)	1-813-209-6202	
	NOTE: When responding to one of our port requests, please respond to the "Reply Fax Number" listed on the port request.		

E D I	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, Low Tech Interface (LTI)		
	Specific EDI Requirements	N/A	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	N/A	

O T H E R	Item	Verizon Wireless	Wireline Carrier B
	... for Testing ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements		
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements		

The carriers agree that information contained in this Part A is operational in nature and subject to change.

The carriers agree to make every effort to give the other carrier thirty (30) days' notice of any changes to its information pursuant to the General Contact Information set forth in Part A.

**The carriers' contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.**

## **Part B – General Contact Information and Trouble Reporting Contact Information**

### **For Verizon Wireless:**

#### **General Contact Information**

##### **Wireless-Wireline Porting:**

###### **Verizon Wireless Porting Center**

Hours of Operation: 24 x 7 x 365 (open all holiday's, no exceptions)  
Address: 300 River Rock Blvd.  
Murfreesboro, TN 37128  
Phone: 1-800-488-2002

###### **Porting Center Carrier Relations**

Contact: Associate Director of Inter-Carrier Relations  
Phone: 1-800-711-9300  
Fax: 1-615-372-2411  
Hours: 8:00am to 5:00pm (Central Time)  
E-mail: [PortCenterICR@GL.VerizonWireless.com](mailto:PortCenterICR@GL.VerizonWireless.com)

###### **Pre-Launch (Pre-11/24/03) Inter-Carrier Test Scheduling**

Contact: Wireline Inter-Carrier Test Coordinator  
Phone: 1-248-915-3430  
Fax: 1-248-915-3799  
E-mail: [Marie.Moore@VerizonWireless.com](mailto:Marie.Moore@VerizonWireless.com)

###### **Post-Launch (Post-11/24/03) Inter-Carrier Test Scheduling**

Contact: Inter-Carrier Relations  
Phone: 1-800-711-9300  
Fax: 1-615-372-2411  
E-mail: [PortCenterICR@GL.VerizonWireless.com](mailto:PortCenterICR@GL.VerizonWireless.com)

#### **Trouble Reporting Contact Information**

Process: The Verizon Wireless Porting Center is the initial interface for all trouble resolution activity associated with porting numbers. The Porting Center will refer issues to the appropriate internal Network or provisioning group for resolution within Verizon Wireless.

##### **Trouble Area:**

ICP/General Trouble Reporting

Phone: 1-800-711-9300  
Fax: 1-615-372-2425  
E-mail: VZWLNPGeneral@GL.VerizonWireless.com

Disaster Recovery

Contact: Porting Center Resource Manager  
Phone: 1-800-711-9300  
Fax: 1-615-372-2425  
E-mail: PCLNPTNC@GL.VerizonWireless.com

CORBA:

Contact: TSI Hotline  
Phone: 1-800-892-2888  
Fax: 1-813-273-3164  
E-mail: Hotline@tsiconnections.com; Subject: Customer#: WLNP

**For Wireline Carrier B:**

**General Contact Information**

[contact]

Hours of Operation:

Address:

[contact]

Phone:

Fax:

**Trouble Reporting Contact Information**

**Trouble Area:**

ICP/General Trouble Reporting

Phone:

Fax:

E-mail:

Disaster Recovery

Contact:

Phone:

Fax:

E-mail:

CORBA:

Contact:

Phone:

Fax:

E-mail:

Note: Each carrier shall make available a Porting Administration Group or Trouble Reporting contact on a 24x7x365 basis.

The Trouble Reporting Contacts may be amended from time to time by a carrier upon providing thirty (30) days' written notice to the other at the General Contact Information set forth in this Part A.

**The carriers' contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.**

## **Part C – Trouble Ticket Detail**

### **For Verizon Wireless:**

#### **Information Required For Logging Trouble Tickets\***

The following may be required for trouble reports:

- Carrier Name;
- Reporting Carrier organization;
- SPID and associated OCN(s);
- Point of Contact Name;
- Point of Contact Number;
- Porting Telephone Number/MDN;
- LRN;
- Time and Date of Port;
- Associated Error Codes;
- Description of Problem; and
- Other relevant data.

### **For Wireline Carrier B:**

#### **Information Required For Logging Trouble Tickets\***

The following is proposed information for trouble reports:

- Carrier Name;
- Reporting Carrier organization;
- SPID and associated OCN(s);
- Point of Contact Name;
- Point of Contact Number;
- Porting Telephone Number/MDN;
- LRN;
- Time and Date of Port;
- Associated Error Codes;
- Description of Problem; and
- Other relevant data.

\*Each carrier shall make available a Porting Administration Group or Trouble Reporting contact on a 24x7x365 basis.

**The carriers contact information contained in this Trading Partner Profile is for the sole purpose of carrier-to-carrier communication and not for distribution to customers and/or end users.**

## **Part D – Porting Validation Standards**

### **For Verizon Wireless:**

#### **Information Required For Post-Paid Port Validation:**

1. Billing Last Name
2. Business Name if no information for Billing Name
3. Five Digit Zip Code
4. SSN/Tax ID Number
5. Account Number if no SSN or Tax ID
6. Porting Telephone Number

#### **Information Required for Pre-Paid Port Validation:**

1. Porting Telephone Number
2. Password/PIN

### **For Wireline Carrier B:**

#### **Information Required For Post-Paid Port Validation:**

#### **Information Required for Pre-Paid Port Validation:**

Note: Other than those mandatory data items set forth in Section 3.3.1 of the WICIS, the above shall be the only information which may be utilized by a carrier to this Trading Partner Profile to validate a port request for post-paid numbers. "Delay" or "denial" of ports between the carriers shall occur only in the event a carrier is unable to complete the validation of those validation elements expressly set forth above. Once validated, the Carriers shall be obligated to complete the porting transaction. Any variations or proposed changes in the agreed data fields noted above shall be communicated to the other carrier at the information provided in Part B.



## Part E – Affiliate Lists

### For Verizon Wireless:

Allentown SMSA Limited Partnership d/b/a Verizon Wireless  
By Bell Atlantic Mobile Systems of Allentown, Inc., Its General Partner

Anderson CellTelCo d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Athens Cellular, Inc. d/b/a Verizon Wireless

Badlands Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Bell Atlantic Mobile of Asheville, Inc. d/b/a Verizon Wireless

Bell Atlantic Mobile of Rochester, LP d/b/a Verizon Wireless  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

Binghamton MSA Limited Partnership d/b/a Verizon Wireless  
By NYNEX Mobile of New York Limited Partnership, Its General Partner  
By Upstate Cellular Network, Its General Partner  
By Cellco Partnership, Its General Partner

Bismarck MSA Limited Partnership d/b/a Verizon Wireless  
By Cellular Inc. Network Corporation, Its General Partner

Boise City MSA Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

California RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
By Pinnacles Cellular, Inc., Its General Partner

Cellco Partnership d/b/a Verizon Wireless

Cellular Inc. Network Corporation d/b/a Verizon Wireless

Chicago 10 MHz LLC d/b/a Verizon Wireless  
By Cellco Partnership, Its Sole Member

Chicago SMSA LP d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Colorado 7 – Saguache Limited Partnership d/b/a Verizon Wireless  
By: CommNet Cellular Inc., Its Managing Agent

Colorado RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

CommNet Cellular License Holding LLC d/b/a Verizon Wireless  
By Cellular Inc. Financial Corporation, Its Sole Member

CyberTel Cellular Telephone Company d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Dallas MTA, LP d/b/a Verizon Wireless  
By Verizon Wireless Texas, LLC, Its General Partner

Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
By Cellco Partnership, Its General Partner

Des Moines MSA General Partnership d/b/a Verizon Wireless  
By Verizon Wireless (VAW) LLC, Its General Partner

Dubuque MSA Limited Partnership d/b/a Verizon Wireless  
By Southwestco Wireless, LP, Its General Partner  
By Southwestco Wireless, Inc., Its General Partner

Duluth MSA Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Minnesota, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless  
 Fayetteville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Fresno MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Gadsden CellTelCo Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Gila River Cellular General Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its Managing General Partner  
 Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Grays Harbor-Mason Cellular Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 GTE Mobilnet of Florence, Alabama Incorporated d/b/a Verizon Wireless  
 GTE Mobilnet of Fort Wayne Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Indiana Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Indiana RSA #3 Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Indiana RSA #6 Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Santa Barbara Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 GTE Mobilnet of South Texas Limited Partnership d/b/a Verizon Wireless  
     By San Antonio MTA LP, Its General Partner  
     By Verizon Wireless Texas, LLC, Its General Partner  
 GTE Mobilnet of Terre Haute Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 GTE Mobilnet of Texas RSA #17 Limited Partnership d/b/a Verizon Wireless  
     By San Antonio MTA LP, Its General Partner  
     By Verizon Wireless Texas, LLC, Its General Partner  
 GTE Mobilnet of Texas RSA #21 Limited Partnership d/b/a Verizon Wireless  
     By San Antonio MTA LP, Its General Partner  
     By Verizon Wireless Texas, LLC, Its General Partner  
 GTE Mobilnet of the Southwest LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 GTE Wireless of the Midwest Incorporated d/b/a Verizon Wireless  
 Hamilton Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Idaho 6 – Clark Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Idaho RSA No. 1 Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Idaho RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Illinois RSA 1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Illinois RSA 6 and 7 Limited Partnership d/b/a Verizon Wireless  
 By Illinois SMSA Limited Partnership, Its General Partner  
 By Cellco Partnership, Its General Partner

Illinois SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Indiana RSA #1 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Indiana RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Iowa 8 – Monona Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

Iowa RSA 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Iowa RSA 10 General Partnership  
 By Cellco Partnership d/b/a Verizon Wireless, Its Manager

Iowa RSA No. 4 Limited Partnership d/b/a Verizon Wireless  
 By GTE Wireless of the Midwest Incorporated, Its General Partner

Kentucky RSA No. 1 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Los Angeles SMSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Missouri Valley Cellular, Inc. d/b/a Verizon Wireless  
 By CommNet Cellular, Inc., Its Managing Agent

Modoc RSA Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Muskegon Cellular Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

NC-2 LLC d/b/a Verizon Wireless

New Hampshire RSA 2 Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

New Mexico RSA 3 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, its Sole Member

New Mexico RSA 6-I Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Mexico RSA No. 5 Limited Partnership d/b/a Verizon Wireless  
 By GTE Mobilnet of the Southwest LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

New Par d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York RSA No. 3 Cellular Partnership d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

New York SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

North Central RSA 2 of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota 5 - Kidder Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

North Dakota RSA No. 3 Limited Partnership d/b/a Verizon Wireless  
 By AirTouch North Dakota, LLC, Its General Partner

Northeast Pennsylvania SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Northern New Mexico Limited Partnership d/b/a Verizon Wireless  
 By Cellular Inc. Network Corporation, Its General Partner

Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless  
 By CommNet Cellular Inc., Its Managing Agent

NYNEX Mobile Limited Partnership 1 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile Limited Partnership 2 d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

NYNEX Mobile of New York, LP d/b/a Verizon Wireless  
 By Upstate Cellular Network, Its General Partner  
 By Cellco Partnership, Its General Partner

Olympia Cellular Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless (VAW) LLC, Its General Partner

Omaha Cellular Telephone Company d/b/a Verizon Wireless  
 By AirTouch Nebraska, LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless  
 By Verizon Wireless of the East LP, Its General Partner  
 By Verizon Wireless of Georgia LLC, Its General Partner  
 By Cellco Partnership, Its Sole Member

Oxnard-Ventura-Simi Limited Partnership d/b/a Verizon Wireless  
 By AirTouch Cellular, Its General Partner

Pennsylvania 3 Sector 2 Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania 4 Sector 2 Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania RSA 1 Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania RSA No. 6 (I) Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pennsylvania RSA No. 6 (II) Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pittsburgh SMSA Limited Partnership d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Pittsfield Cellular Telephone Company d/b/a Verizon Wireless  
 By Cellco Partnership, Its General Partner

Platte River Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
 By: CommNet Cellular Inc., Its Managing Agent

Portland Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Pueblo Cellular, Inc. d/b/a Verizon Wireless  
 Redding MSA Limited Partnership d/b/a Verizon Wireless  
     By Sacramento Valley Limited Partnership, Its General Partner  
         By AirTouch Cellular, Its General Partner  
 Rockford MSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 RSA 7 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Iowa RSA 7, LLC, Its Managing Partner  
         By Cellco Partnership, Its Sole Member  
 Sacramento Valley Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Cellular, Its General Partner  
 San Antonio MTA, L.P. d/b/a Verizon Wireless  
     By Verizon Wireless Texas, LLC, Its General Partner  
 San Isabel Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By: CommNet Cellular Inc., Its Managing Agent  
 Sanborn Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Sangre De Cristo Cellular, Inc. d/b/a Verizon Wireless  
     By CommNet Cellular, Inc., Its Managing Agent  
 Seattle SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Sioux City MSA Limited Partnership d/b/a Verizon Wireless  
     By Cellular Inc. Network Corporation, Its General Partner  
 Smoky Hill Cellular of Colorado Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Southern & Central Wireless, LLC d/b/a Verizon Wireless  
     By Cellco Partnership, Its Sole Member  
 Southern Indiana RSA Limited Partnership d/b/a Verizon Wireless  
     By GTE Wireless of the Midwest Incorporated, Its General Partner  
 Southwestco Wireless LP d/b/a Verizon Wireless  
     By Southwestco Wireless Inc., Its Managing Partner  
 Spokane MSA Limited Partnership d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 Springfield Cellular Telephone Company d/b/a Verizon Wireless  
     By New Par, Its General Partner  
         By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Joseph CellTelCo d/b/a Verizon Wireless  
     By Verizon Wireless (VAW) LLC, Its General Partner  
 St. Lawrence Seaway RSA Cellular Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 Syracuse SMSA Limited Partnership d/b/a Verizon Wireless  
     By Upstate Cellular Network, Its General Partner  
         By Cellco Partnership, Its General Partner  
 The Great Salt Flats Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
         By Cellco Partnership, Its Sole Member  
 Topeka Cellular Telephone Company, Inc. d/b/a Verizon Wireless

Tuscaloosa Cellular Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Upstate Cellular Network d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Utah RSA 6 Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent  
 Verizon Wireless (VAW) LLC d/b/a Verizon Wireless  
 Verizon Wireless of the East LP d/b/a Verizon Wireless  
     By Verizon Wireless of Georgia LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Verizon Wireless Personal Communications LP d/b/a Verizon Wireless  
 Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Vermont RSA Limited Partnership d/b/a Verizon Wireless  
     By NYNEX Mobile Limited Partnership 1, Its General Partner  
     By Cellco Partnership, Its General Partner  
 Virginia RSA 5 Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Virginia 10 RSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Wasatch Utah RSA No. 2 Limited Partnership d/b/a Verizon Wireless  
     By AirTouch Utah, LLC, Its General Partner  
     By Cellco Partnership, Its Sole Member  
 Washington, DC SMSA Limited Partnership d/b/a Verizon Wireless  
     By Cellco Partnership, Its General Partner  
 Waterloo MSA Limited Partnership d/b/a Verizon Wireless  
     By Southwestco Wireless LP, Its General Partner  
     By Southwestco Wireless Inc., Its General Partner  
 Wyoming 1 – Park Limited Partnership d/b/a Verizon Wireless  
     By CommNet Cellular Inc., Its Managing Agent

**For Wireline Carrier B:**

[Wireline Carrier B to insert its affiliates list here]

## Porting Questionnaire with Verizon Wireless

Carrier Name:

Completed by:

Date:

1. Name of point of contact (within your company)
  - a. Phone number
  - b. Fax number
  - c. E mail address
2. Name of back up or secondary contact (within your company)
  - a. Phone number
  - b. Fax number
  - c. E mail address
3. Hours of operation
4. Observed holidays
5. Mailing address
6. Please provide the SPID(s) associated with you company.
7. Is your company associated with or a subsidiary of any other companies? If so, which companies and SPIDS
8. How should Verizon Wireless submit a port request or LSR to your company?  
Fax? Email?
9. What is your turnaround for port requests (3,4 or 5 days)?

10. If fax, does the company utilize TSP?

- a. If not, please provide the fax number
- b. If multiple SPID's are involved, do the requests go to the same fax or different numbers?
- c. If multiple fax numbers, please provide a list with SPID and corresponding fax number.
- d. Are different areas (or regions) covered by different SPIDs (i.e. Northeast US covered by SPID 1234, Southeast US covered by SPID 5678, etc)?

11. If E Mail, please provide e-mail address(es).

- a. If multiple SPID's are involved, do the requests go to the same e-mail address or different addresses?
- b. If multiple addresses, please provide a list with SPID and corresponding e-mail addresses.
- c. Are different areas (or regions) covered by different SPIDs (i.e. Northeast US covered by SPID 1234, Southeast US covered by SPID 5678, etc)?

12. If requests are to be sent by any other method, please provide instructions in detail.

13. What LSOG (LSR) version does the company use?

14. Does the company have a template of the LSR, EUI and NP forms showing your required fields and format?

- a. If yes, can the company provide a copy?
- b. If not, can someone go thru a form, line by line, with us to verify properly prepared forms are submitted?

15. Does your company resell numbers to other carriers (type one)?

- a. If yes:



What companies?

What are their SPIDs?

Any specific NPA-NXX?

Do you have any contact information for these companies?

- b. Does your company or has your company purchased numbers from other carriers?

16. Is the company willing to test with Verizon Wireless?

Any additional comments:

Please return completed form and any attachments to me via fax at 615-372-2382 or via e-mail at Nilda.Penn@verizonwireless.com

LSOG 6 - Revised 6/14/03

Number Portability  
Service Request

## Administrative Section

PON  VER  ATN  PG  OF 

## Service Detail Section

LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG LNUM  LNA  PORTED NBR NPT  RTI  NPTG

LSOG 6 - Revised 6/14/03

Local Service  
Request (LSR)

041133

**Administrative Section**PON VER LSR NO  ATN  SC  PG  OF D/TSENT  DDD  APPTIME DDDO  NOR  DFDT  DEDTO PROJECT  CHC  REQ TYP  ACT SUP  EXP  EXP REN  RTR  CC RVER  NNSP  ONSP  ALBR  AGAUTH ACTL  SACTL  LST  TOS SPEC  NC  NCI  SECNCI RPON  RORD NENA/ECC  NPDI  SLI QRYNR  SCD AFA ☐ ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ☐ ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ☐ ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ☐ ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ☐ ACCOUNT FEATURE ACCOUNT FEATURE DETAIL AFA ☐ ACCOUNT FEATURE ACCOUNT FEATURE DETAIL

Local Service  
Request (LSR)

0 4 1 2 3 2

**Administrative Section**PON  VER  ATN  PG  OF **Bill Section**BAN1 BAN2 EBP  VTA **Contact Section**INIT TELNO  FAX NO IMPCON  TELNO (IMPCON) DSGCON  DRC  TELNO (DSGCON) FAX NO (DSGCON)  ATR **Remarks**

LSOG 6 - Revised 6/14/03

End User  
Service Request**Administrative Section**PON  VER  ATN  PG  OF **Disconnect Information**DNUM  DISC NBR  TERS TC OPT  TC TO PRI  TC TO SEC TC PER TCID  TC NAME TCID  TC NAME TC TO SEC TCID  TC NAME TCID  TC NAME TC TO SEC TCID  TC NAME TCID  TC NAME DNUM  DISC NBR  TERS TC OPT  TC TO PRI  TC TO SEC TC PER TCID  TC NAME TCID  TC NAME TC TO SEC TCID  TC NAME TCID  TC NAME TC TO SEC TCID  TC NAME TCID  TC NAME

LSOG 6 - Revised 6/14/03

End User  
Service Request**Administrative Section**PON  VER  ATN  PG  OF **Location and Access Section**LOCNUM NAME  NCOM  AFT SAPR  SANO  SASF  SASD SASN SATH  SASS  LD1  LV1 LD2  LV2  LD3  LV3 AAI CITY STATE  ZIP CODE ICON  TELNO ACC WHOP  CPE MFR CPE MOD  ELT  B **Bill Section**EATN

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

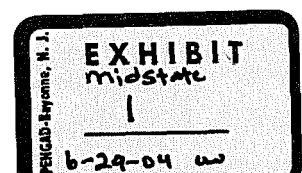
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IN THE MATTER OF THE PETITION  
OF MIDSTATE COMMUNICATIONS,  
INC. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-052

**DIRECT PRE-FILED TESTIMONY OF**  
**MARK BENTON**

**May 14, 2004**



**Q: Please state your business name and address?**

A: My name is Mark D. Benton, General Manager of Midstate Communications, Inc. My business address is 120 East First, Kimball, SD 54355. My business telephone number is 605-778-6221.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Midstate Communications, Inc. (Midstate). Midstate is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 4896 access lines, of which 307 have lifeline service. Midstate's service area includes the exchanges of Academy, Delmont, Fort Thompson, Gann Valley, Geddes, Kimball, New Holland, Platte, Pukwana, Stickney, and White Lake.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: Yes.

**Q: What is the current method of routing calls from your subscriber's landline phones to wireless phone numbers?**

A: Midstate has points of interconnection (POI) with SDN and Quest. The SDN connection is for toll completion and toll termination for InterLATA and Intra LATA traffic. The Qwest POI is a terminating trunk, only for Qwest IntraLATA traffic.

**Q: Have any subscribers requested local number portability (LNP) from your company?**



A: To the best of my knowledge, no subscribers have requested LNP.

**Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever requested LNP from your company?**

A: No.

**Q: Have any wireless carriers requested LNP?**

A: Yes.

**Q: How much time would be required for your company to provide LNP, if ordered by the Commission?**

A: We have not completed a specific implementation time line yet, but implementation will take a considerable amount of time.

**Q: In your experience as the general manager of Midstate have you seen increases or additions to the itemized fees on your customer's telephone bills?**

A: Yes.

**Q: What do you expect your customer's reaction to be to any new LNP fees on their bills?**

A: I would expect the reaction to be very negative.

**Q: Is the public interest, convenience, and necessity served by requiring your company to implement LNP at this time?**

A: No. The current demand for LNP appears to be non-existent, as no customers have requested LNP and the cost of LNP is significant.

**Q: Does this conclude your direct testimony?**

A: Yes.

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF MIDSTATE COMMUNICATIONS,  
INC. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-052

REBUTTAL TESTIMONY OF  
  
MARK BENTON

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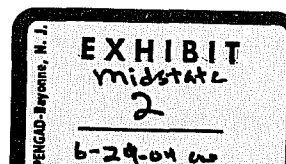
REBUTTAL TESTIMONY OF

MARK BENTON

ON BEHALF OF

MIDSTATE COMMUNICATIONS, INC.

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Mark Benton. I am the General Manager of Midstate Communications,  
3 Inc. ("Midstate"), of 120 East 1<sup>st</sup> Street, Kimball, South Dakota 57355.

4 Q. What is the purpose of your testimony?

5 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
6 testimony filed on May 28, 2004, on behalf of WWC License L.L.C. (Western Wire-  
7 less).

8 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
9 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
10 their legal obligations." How do you respond?

11 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
12 Once the FCC made it clear that wireline carriers would be required to port num-  
13 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Mid-  
14 state took immediate steps to investigate the cost and the processes involved with  
15 LNP and to explore its legal options. Because Midstate had no experience with  
16 LNP, it took time to gather the pertinent information and to make the decision to  
17 seek a suspension of the requirement from the Commission. Further, the suspension  
18 petition itself took time and effort to prepare because Midstate wanted to present as  
19 complete a petition as possible, accompanied by cost information as complete as  
20 possible.

21 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
22 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.

Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "local calls?"

A. In its answer to Interrogatory 4., Western Wireless identifies the "serving tandem" as the Qwest LATA or local tandem, which is outside of Midstate's service territory. (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal Testimony of Steven E. Watkins). Therefore, Mr. Williams' statement is not consistent with Midstate's current call routing practices, because it would require Midstate to route calls to a point outside of its service territory (other than via an EAS arrangement) as local. I note that in its answer to Interrogatory 7., Western Wireless admits that there is no requirement for Midstate to route calls to the Qwest tandem. (See Western Wireless Response to Interrogatory 7 attached to the Rebuttal Testimony of Steven E. Watkins.) Rather, calls that terminate outside Midstate's service territory, including calls to Western Wireless within the Midstate exchanges where Western Wireless does not have a direct connection, are routed to interexchange carriers for termination. Only traffic routed to Western Wireless via a direct connection within a Midstate exchange is routed as "local traffic." Therefore, it appears that Western Wireless' argument really is a bad faith attempt to change the agreement between the parties.

Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it is the originating carrier's responsibility to deliver local traffic for termination and that the costs associated with fulfilling that responsibility are not a number portability cost." What is your response to this statement?

1 A. Mr. Williams' statements are inconsistent and should be rejected. First he argues  
2 that Midstate should be required to install new facilities to deliver ported calls to  
3 Western Wireless and then he argues that the cost of those facilities are not number  
4 portability costs.

5 Q. At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
6 Petitioners are inefficient in that they make little or no utilization of existing equipment  
7 and shared facilities currently used to exchange calls with other carriers." How do you  
8 respond?

9 A. The routing methods reflected in the cost exhibit attached to Midstate's Petition are  
10 based on the current routing arrangements that Midstate has in place with other  
11 carriers, namely, calls that are dialed on a local 7-digit basis are routed via direct  
12 connections. For example, where there is a direct connection between Midstate and  
13 Western Wireless, customers in that exchange can call a Western Wireless customer  
14 on a local 7-digit basis. Therefore, if calls to numbers ported to a carrier are to be  
15 dialed on a local 7-digit basis, a direct connection needs to be established between  
16 the carriers.

17 Q. Would Western Wireless' routing proposal have impacts to Midstate beyond LNP?

18 A. Yes. It is my understanding that Western Wireless' proposal would increase Mid-  
19 state's costs. First, Western Wireless' proposal would require Midstate to pay for  
20 new facilities to the tandem provider that it does not need for any purpose other  
21 than to route calls to ported numbers to wireless carriers. Second, Midstate would  
22 most likely have to pay transit traffic charges to the tandem provider for transport-  
23 ing the traffic to the wireless carriers. Third, in response to Interrogatory 16.b.,

1 Western Wireless indicates that Midstate would be required to pay reciprocal com-  
2 pensation on calls to ported numbers, even if Midstate does not pay compensation  
3 on such calls today. (See Western Wireless Response to Interrogatory 16.b. at-  
4 tached to the Rebuttal Testimony of Steven E. Watkins.)

5 Q. Is there any other impact?

6 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
7 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
8 wireless carriers are routed to interexchange carriers. For example, if Midstate  
9 Customer A calls Western Wireless Customer B in an exchange where there is no  
10 direct connection and no EAS arrangement, Midstate Customer A incurs a toll  
11 charge. However, under Western Wireless' proposal, it is my understanding that if  
12 Midstate Customer A calls Western Wireless Customer B, who now has a number  
13 ported from Midstate, Midstate Customer A would be charged for a local call. Cus-  
14 tomers may be encouraged to "give up" their existing wireless numbers and obtain  
15 wireline numbers for the sole purpose of porting that number to avoid toll charges.  
16 This is not only a bad public policy result, but also simply a bad faith attempt to  
17 avoid an important contract provision upon which Western Wireless has already  
18 agreed with our company.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes.

CERTIFICATE OF SERVICE

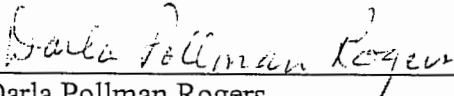
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
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Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
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Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
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Pierre, South Dakota 57501  
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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

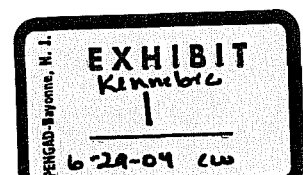
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IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

**DIRECT PRE-FILED TESTIMONY OF**  
**ROD BOWAR**

May 14, 2004





**DIRECT TESTIMONY OF ROD BOWAR**

**Q: Please state your name and business address.**

A: My name is Rod Bowar, and my business address is P.O. Box 158, 220 South Main, Kennebec, SD 57544. My business telephone number is (605) 869-2220.

**Q. By whom are you employed and in what capacity?**

A. I am the General Manager of Kennebec Telephone Company ("Kennebec"). Kennebec is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to subscribers within its South Dakota service area, which includes the exchanges of Kennebec and Presho. As of December 31, 2003, Kennebec provided service to 751 total access lines, 31 of which receive Lifeline service.

**Q: On whose behalf are you presenting testimony?**

A: I am presenting testimony on behalf of Kennebec.

**Q: What is the purpose of your testimony in this proceeding?**

A. The purpose of my testimony is to explain how the implementation of wireline-to-wireless local number portability ("LNP") would impact the consumers of Kennebec. Specifically, I will review the results of a survey that was conducted for Kennebec, which indicates that the overwhelming majority of our customers do not want wireline-to-wireless LNP at any price. I will also provide demographic information on Kennebec's customers such as age and income distributions. This information further indicates the adverse economic impact that would occur on Kennebec's customers if wireline-to-wireless LNP were to be implemented.

1 **Q. Please describe how you gathered information regarding the opinions of**  
2 **Kennebec's consumers about the implementation of wireline-to-wireless**  
3 **LNP.**

4 A. Kennebec commissioned TELEC Consulting Resources, Inc. to conduct a survey  
5 of its consumers. The survey was developed, administered, and analyzed by Ms.  
6 Sue Vanicek. Ms. Vanicek has conducted numerous surveys on telecommunica-  
7 tions issues in her position as a Senior Consultant at TELEC Consulting Re-  
8 sources, Inc., as well as in her previous employment at Lincoln Telephone/Aliant  
9 Communications. I worked with Ms. Vanicek throughout the process, including  
10 discussing the information we would want to collect in a survey, and approving  
11 the questionnaire prior to its distribution.

12 **Q. How was the survey conducted?**

13 A. A questionnaire was mailed to each of Kennebec's residential and business cus-  
14 tomers during January, 2004. A total of 575 surveys were mailed, and 208 sur-  
15 veys were returned, for a response rate of 36 percent. A postage-paid return enve-  
16 lope was included with the questionnaire, so that consumers would incur no costs  
17 in completing the survey. The survey explained how wireline-to-wireless LNP  
18 would function, and that consumers would pay a monthly surcharge for five years  
19 so that Kennebec could recover the costs of LNP implementation if it were of-  
20 fered.

21 **Q. How reliable is the survey?**

22 A. Ms. Vanicek indicated that based on the number of returned surveys out of the to-  
23 tal mailed, the margin of error for this survey is  $\pm 4.3$  percent at the 95 percent

1 level of confidence. This means that if the survey were conducted 100 times, 95  
2 out of 100 times the results would be within  $\pm 4.3$  percent of the results generated  
3 by this survey.

4 **Q. How willing are consumers to pay an LNP surcharge in order to have wire-**  
5 **line-to-wireless LNP available to them?**

6 A. Only about one-fifth of Kennebec's customers (21.4 percent) said that they would  
7 be willing to pay a surcharge of \$0.50 per month for LNP. When asked if they  
8 would be willing to pay a surcharge of \$1.00 per month, the proportion dropped to  
9 11.8 percent, or about one in ten customers. When asked if they would be willing  
10 to pay a surcharge of \$2.00 per month, the proportion dropped to 2.6 percent, or  
11 about one in forty customers. Only 1.6 percent of Kennebec's customers said  
12 they would be willing to pay a surcharge of \$3.00 per month for LNP.

13 **Q. What other information did the survey reveal?**

14 A. About three-quarters of the survey respondents (73.4 percent) said they have a  
15 wireless telephone. Therefore, if the South Dakota Public Utilities Commission  
16 ("Commission") ordered Kennebec to provide wireline-to-wireless LNP, about  
17 one-fourth of Kennebec's customers would be paying a charge for a feature they  
18 would never use, because they do not own a wireless phone to which they could  
19 port their landline telephone number.

20 **Q. What types of comments did Kennebec's consumers make on wireline-to-**  
21 **wireless LNP?**

22 A. At the end of the survey we asked consumers to provide any written comments  
23 they wished to make on wireline-to-wireless LNP. There were three common

1 themes in the responses. One theme was that Kennebec's customers do not want  
2 to pay for a service that they would not use. A second common theme was that  
3 wireless service was poor or nonexistent in many of the areas served by Kenne-  
4 bec. A third theme contained in the comments was that customers thought rates  
5 were high enough and did not want to see any rate increases.

6 **Q. Do you have any other observations on the comments you received from**  
7 **Kennebec's consumers?**

8 A. Yes. I understand that the Federal Communications Commission ("FCC") has  
9 stated that wireline-to-wireless LNP is a benefit to consumers. However, com-  
10 ments we received included responses such as "THIS IS GOV. SHORTSIGHT-  
11 EDNESS" and "stupid." I think these comments indicate that not all consumers  
12 agree with the FCC that wireline-to-wireless LNP is beneficial.

13 **Q. Have any subscribers requested LNP from your company?**

14 A. No, we have had no subscriber requests for LNP.

15 **Q. Have any wireline carriers requested LNP from your company?**

16 A. No, we have received no requests for LNP from wireline carriers.

17 **Q. Have any wireless carriers submitted requests for LNP?**

18 A. Yes.

19 **Q. How much time would be required for your company to provide LNP,**  
20 **if ordered by the Commission?**

21 A. Kennebec has not completed a specific implementation time line yet, but  
22 Implementation takes a considerable amount of time.

1     **Q.     Please describe what demographic information reveals about Kennebec's**  
2     **customers.**

3     A.     The areas served by Kennebec are composed of consumers who are older and  
4            have lower incomes than the nation as a whole. For example, one in five resi-  
5            dents (20.4 percent) of Kennebec and Presheo are 65 or older as of the 2000 Cen-  
6            sus of Population. This compares to about one in eight people (12.4 percent) in  
7            the United States in that same age group. About three in ten households (28.3  
8            percent) in Kennebec and Presheo have incomes of less than \$20,000 per year, ac-  
9            cording to the 2000 Census. This compares with about two in ten households  
10           (22.1 percent) in the United States in that same range of income.

11    **Q.     What does this demographic data indicate in terms of the impact of a possi-**  
12    **ble LNP surcharge and/or other rate increases to recover the cost of LNP**  
13    **implementation on Kennebec's customers?**

14    A.     Many elderly households are on fixed incomes. Because Kennebec serves a  
15            greater proportion of elderly than the national average, an LNP surcharge or other  
16            rate increases to recover the cost of LNP implementation could cause a greater  
17            burden on Kennebec's customers than occurs in the nation as a whole. This same  
18            statement regarding the burden on Kennebec's customers is also true with regard  
19            to income. Because Kennebec serves a greater proportion of households with low  
20            incomes than the nation as a whole, the burden imposed by an LNP surcharge or  
21            other rate increases related to LNP implementation will cause a greater burden on  
22            Kennebec's consumers.

1   **Q.   Based on the survey results, the lack of requests for LNP, and the demo-**  
2       **graphic data for Kennebec, what do you expect your customer's reaction**  
3       **would be to any new LNP fees that might be added to their bills?**

4   A.   Based on the combination of the vast majority of customers stating they do not  
5       want to pay an LNP surcharge, the customer comments indicating that they do not  
6       want to pay for a service that they will not use, the lack of customer requests for  
7       LNP, and the data demonstrating that Kennebec serves more elderly and low-  
8       income customers than the nationwide average, I would expect a very negative  
9       reaction from customers to the addition of charges on their bill to pay for LNP.

10   **Q.   Based on the survey data and demographic data, what is your conclusion**  
11       **generally about the impact of the implementation of wireline-to-wireless**  
12       **LNP on Kennebec's customers.**

13   A.   I believe that requiring Kennebec to implement wireline-to-wireless LNP would  
14       result in an adverse economic impact on Kennebec's customers. This is one of  
15       the factors to be considered in a petition for a suspension or modification of Sec-  
16       tion 251(b)(2) of the Telecommunications Act of 1996, as discussed in Mr. Wat-  
17       kins' testimony. As I explained, the vast majority of consumers in Kennebec's  
18       service area do not want to pay an LNP surcharge of \$0.50 or more. Further-  
19       more, Kennebec serves a greater proportion of the population that is older and  
20       has lower incomes than the national average, making any LNP surcharge and  
21       other costs that may be passed on to consumers an even greater burden.

22   **Q.   How should the Commission proceed in this matter?**

1 A. As demonstrated in my testimony and the testimony of Messrs. Watkins, Davis,  
2 and Bullock, Kennebec has met the criteria set forth in 47 U.S.C. Section  
3 251(f)(2)(A). In addition, the suspension requested in this proceeding is consis-  
4 tent with the public interest, convenience and necessity requirement set forth in 47  
5 U.S.C. Section 251(f)(2)(B) as is more specifically addressed in Mr. Watkins' tes-  
6 timony. Therefore, I believe Kennebec has met its burden of proof under 47  
7 U.S.C. Section 251(f)(2), and the Commission should grant Kennebec's petition  
8 for suspension or modification.

9 Kennebec requests suspension of the LNP requirement until there is evidence of  
10 reasonable demand for LNP, and until the per-line cost of LNP is reduced. At a  
11 minimum suspension should be granted until six months following the FCC's full  
12 and final disposition of the issues associated with the porting interval and the  
13 routing of calls between wireline and wireless providers, at which time Kennebec  
14 may need to seek further Section 251(f)(2) relief based upon the economic impact  
15 of these decisions.

16 **Q. Does this conclude your testimony?**

17 A. Yes, it does.

**RECEIVED**

BEFORE THE PUBLIC UTILITIES COMMISSION

JUN 15 2004

OF THE STATE OF SOUTH DAKOTA

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

REBUTTAL TESTIMONY OF

ROD BOWAR

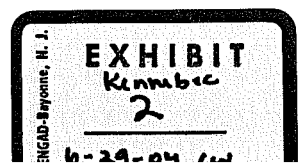
**REBUTTAL TESTIMONY OF**

**ROD BOWAR**

**ON BEHALF OF**

**KENNEBEC TELEPHONE COMPANY**

**June 14, 2004**





1 Q. Please state your name, business name and address.

2 A. My name is Rod Bowar. I am the General Manager of Kennebec Telephone Com-  
3 pany ("Kennebec"), whose address is 209 South Main, Kennebec, South Dakota  
4 57544.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Ken-  
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16 LNP and to explore its legal options. Because Kennebec had no experience with  
17 LNP, it took time to gather the pertinent information and to make the decision to  
18 seek a suspension of the requirement from the Commission. Further, the suspension  
19 petition itself took time and effort to prepare because Kennebec wanted to present  
20 as complete a petition as possible, accompanied by cost information as complete as  
21 possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
24 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
25 cal calls?"

1    **A.    I believe that Mr. Williams' statement is not consistent with the interconnection**  
2       **agreement signed by Kennebec and Western Wireless. Pursuant to that agreement,**  
3       **Kennebec did not agree to route traffic destined for Western Wireless to the serving**  
4       **tandem. Rather, traffic terminating to Western Wireless is routed to an interex-**  
5       **change carrier. Therefore, it appears that Western Wireless' argument really is a**  
6       **bad faith attempt to change the agreement between the parties.**

7    **Q.    At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it**  
8       **is the originating carrier's responsibility to deliver local traffic for termination and that**  
9       **the costs associated with fulfilling that responsibility are not a number portability cost."**  
10       **What is your response to this statement?**

11   **A.    Mr. Williams' statements are inconsistent and should be rejected. First he argues**  
12       **that Kennebec should be required to install new facilities to deliver ported calls to**  
13       **Western Wireless and then he argues that the cost of those facilities are not number**  
14       **portability costs. Further, as discussed at lines 1-6 above, Mr. Williams' suggestion**  
15       **that it is Kennebec's responsibility to deliver traffic destined to Western Wireless**  
16       **through a serving tandem is not consistent with the interconnection agreement be-**  
17       **tween Kennebec and Western Wireless.**

18   **Q.    At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the**  
19       **Petitioners are inefficient in that they make little or no utilization of existing equipment**  
20       **and shared facilities currently used to exchange calls with other carriers." How do you**  
21       **respond?**

22   **A.    The routing methods reflected in the cost exhibit attached to Kennebec's Petition**  
23       **are based on the current routing arrangements that Kennebec has in place with**  
24       **other carriers, namely, calls that are dialed on a local 7-digit basis are routed via di-**  
25       **rect connections. Therefore, if calls to numbers ported to a carrier are to be dialed**

1 on a local 7-digit basis, a direct connection needs to be established between the car-  
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4 A. Yes. It is my understanding that Western Wireless' proposal would increase Ken-  
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10 Q. Is there any other impact?

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13 wireless carriers are routed to interexchange carriers. For example, if Kennebec  
14 Customer A calls Western Wireless Customer B, Kennebec Customer A incurs a toll  
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17 ported from Kennebec, Kennebec Customer A would be charged for a local call.  
18 Customers may be encouraged to "give up" their existing wireless numbers and ob-  
19 tain wireline numbers for the sole purpose of porting that number to avoid toll  
20 charges. This is not only a bad public policy result, but also simply a bad faith at-  
21 tempt to avoid an important contract provision upon which Western Wireless has  
22 already agreed with our company.

23 Q. Does this conclude your rebuttal testimony?

24 A. Yes.

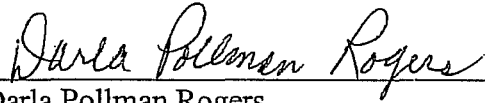
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
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Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
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P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

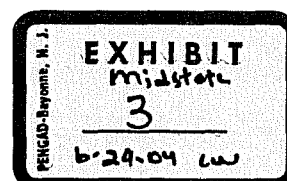
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IN THE MATTER OF THE PETITION  
OF MIDSTATE COMMUNICATIONS,  
INC. FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-052

**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF MIDSTATE COMMUNICATIONS, INC.  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



1                                   **DIRECT TESTIMONY OF DAN DAVIS**  
2                                   **ON BEHALF OF MIDSTATE COMMUNICATIONS, INC.**  
3                                   **REGARDING COMPANY-SPECIFIC COST DATA**  
4

5   **Q1. Please State your name, Employer, Business Address and Telephone Num-**  
6   **ber.**

7  
8   A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
9       My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
10      68508.

11   **Q2. On whose behalf are you testifying?**

12  
13   A. I am testifying on behalf of the Company identified in the caption of the docket  
14      set out above. I will refer to this Company as the "RLEC".

15   **Q3. Have you provided your background information and an explanation of your**  
16   **role in this Docket in the "companion" testimony that has been offered in this**  
17   **Docket?**

18   A. Yes, I have.

19   **Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

20   A. Yes, in conjunction with members of the professional staff of TELEC, I was re-  
21      sponsible for the preparation of Exhibit 1 as was attached to the Petition and I was  
22      also responsible for the preparation of supporting information prepared in connec-  
23      tion with the responses to the discovery requests of Western Wireless. I was also  
24      responsible for the preparation of Exhibit 2 that is attached to this testimony.

25   **Q5. In your "companion" testimony you have explained the line items that com-**  
26   **prise Exhibit 2 and the process used to compile the data that was used to de-**  
27   **velop the cost as shown on Exhibit 2. Please discuss where in your "compan-**  
28   **ion" testimony you describe this process.**

1 A. The process that was used to compile and develop the cost per line in Exhibit 2 is  
2 described on pages four through six in my "companion" testimony.

3 **Q6. What was the source of the data?**

4 A. The data was derived from the books, financial records and managers of the  
5 RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
6 iffs, service order administration service bureaus, the number portability admini-  
7 stration center, a number portability database provider, and my professional ex-  
8 perience.

9 **Q7. What was the purpose of obtaining that particular data?**

10 A. To assist me in preparing an estimate of the costs to implement LNP for the  
11 RLEC.

12 **Q8. Is this the type of data that experts in your field would ordinarily review in**  
13 **formulating an opinion concerning the costs of LNP?**

14 A. Yes.

15 **Q9. What use did you make of the data after you received it from the RLEC?**

16 A. I have explained the use of the data on page six of my "companion" testimony.

17 **Q10. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total non-recurring costs, excluding transport, to implement**  
19 **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
20 **year recovery period through an end user surcharge?**

21 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
22 \$113,394.00. Such costs were amortized over a recovery period of 60 months us-

1 ing a rate of return of 11.25%. The total nonrecurring costs per month, excluding  
2 transport, amortized over five years is \$2,480.00.

3 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
4 **tainty as to the total recurring costs, excluding transport, to implement LNP**  
5 **that you have calculated for the RLEC and that will be recovered from end**  
6 **users on an ongoing monthly charge basis?**

7 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$2,288.00 per  
8 month.

9 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
10 **tainty as to the total cost, excluding transport, per line per month that would**  
11 **be charged to end-users if LNP were to be implemented by the RLEC?**

12 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
13 the total nonrecurring costs per month amortized over five years to the total recur-  
14 ring costs per month, both amounts excluding transport costs, and dividing this  
15 sum by the RLEC's total access lines. Surcharge and taxes were then applied to  
16 this quotient. The resulting cost per line per month was calculated to be \$1.15.

17 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total LNP costs and the monthly amount recovered from each**  
19 **end-user if the FCC determines that transport costs should be included in the**  
20 **LNP costs recovered from end-users?**

21 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
22 costs, including transport costs, were calculated to be \$12,601.00 per month. The



1 resulting LNP cost per line, per month, including transport, surcharges and taxes,  
2 was calculated to be \$3.04.

3 **Q14. If FCC determines that transport costs should not be included in the end-**  
4 **user surcharge, will the transport cost still be incurred and who will pay**  
5 **these costs?**

6 A. Transport costs will have to be incurred to transport calls outside of the RLEC's  
7 service area. If the cost is not recovered through an end-user surcharge, and if  
8 these costs are not recovered from the wireless carrier, then the only party to pay  
9 these costs would be the RLEC.

10 **Q15. Is it your opinion that the calculations that you have just described fairly and**  
11 **reasonably describe the non-recurring and recurring costs for the RLEC to**  
12 **implement LNP and the end user charges to recover such costs?**

13 A. Yes.

14 **Q16. Does this conclude your testimony?**

15 A. Yes, it does.

16

## Midstate Communications, Inc.

## Total Estimated LNP Non-recurring and Recurring Costs

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 82,110	
Internal Business Procedure Changes (1)	\$ 3,229	
Inter-carrier Testing	\$ 4,247	
Other Internal Costs (2)	\$ 19,474	
LNP Query set up	\$ 1,900	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 2,434	
Total Non-recurring Costs excluding transport	\$ 113,394	
Non recurring transport charges (4)	\$ 3,870	
Total Non-recurring Costs including transport	\$ 117,264	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ -	
LNP Query Costs per month	\$ 1,500	
Other Recurring Costs	\$ 788	
Total Recurring Monthly Costs excluding Transport	\$ 2,288	
Transport	\$ 7,749	
Total Recurring Monthly Costs including Transport	\$ 10,037	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,480	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,564	
Total cost per month excluding transport	\$ 4,768	
Total cost per month including transport	\$ 12,601	
Access Lines excluding Lifeline	4,762	
LNP cost per line per month excluding transport (5)	\$ 1.00	\$ 1.15
LNP cost per line per month including transport (5)	\$ 2.65	\$ 3.04

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Local Trunking between sutending end-offices and Midstate's tandem location

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

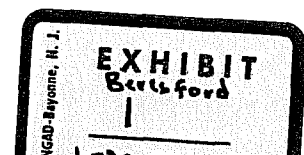
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IN THE MATTER OF THE PETITION  
OF BERESFORD MUNICIPAL TELE-  
PHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-048

DIRECT PRE-FILED TESTIMONY OF  
TODD HANSEN

May 14, 2004



1   **Q: Please state your business name and address?**

2   A: I am Todd Hansen, General Manager, of Beresford Municipal Telephone Company.  
3       My address is 101 North 3<sup>rd</sup> Street, Beresford SD, 57004.

4   **Q: By whom are you employed and in what capacity?**

5   A: I am the General Manager of Beresford Municipal Telephone Company  
6       (Beresford). The Company is a rural independent local exchange carrier that  
7       provides local exchange, exchange access and other telecommunications services to  
8       1463 access lines within its South Dakota service area.

9   **Q: Does your company have any direct points of interconnection with any wireless**  
10       **carrier and/or does your company provide any blocks of numbers for your**  
11       **company's rate centers to any wireless carrier?**

12   A: No.

13   **Q: How do the local calling areas of your exchanges compare with those of the**  
14       **wireless carriers operating in your area?**

15   A: Wireless service areas are much more extensive.

16   **Q: What is the current method of routing calls from your subscriber's landline**  
17       **phones to wireless phone numbers?**

18   A: Beresford has points of interconnection (POI) with SDN and Qwest. The SDN  
19       connection is for toll completion and toll termination for InterLATA and Intra  
20       LATA traffic. The Qwest POI is a terminating trunk, only for Qwest IntraLATA  
21       traffic.

22   **Q: Have any subscribers requested local number portability (LNP) from your**  
23       **company?**

1 A: To the best of my knowledge, we have received no requests for local number  
2 portability from any subscriber of Beresford Municipal Telephone Company.

3 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
4 **requested LNP from your company?**

5 A: To the best of my knowledge, we have never received any requests for local number  
6 portability from any wireline carrier.

7 **Q: Have any wireless carriers requested LNP?**

8 A. Yes.

9 **Q: How much time would be required for your company to provide LNP, if ordered**  
10 **by the Commission?**

11 A We have not completed a specific implementation time line yet, but implementation  
12 will take a considerable amount of time.

13 **Q: In your experience as the general manager of Beresford Municipal Telephone**  
14 **Company have you seen increases or additions to the itemized fees on your**  
15 **customer's telephone bills?**

16 A. Yes

17 **Q: What do you expect your customer's reaction to be to any new LNP fees on their**  
18 **bills?**

19 A. I would expect the reaction to be very negative.

20 **Q: Is the public interest, convenience, and necessity served by requiring your**  
21 **company to implement LNP at this time?**

22 A: Since we have received no customer requests for LNP, it would seem that there is  
23 little interest, necessity or customer demand for the convenience of LNP. As such it

1           would seem to be in conflict with public interest to require the implementing of  
2           LNP at this time.

3    **Q: Does this conclude your direct testimony?**

4    A: Yes.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF BERESFORD MUNICIPAL TELE-  
PHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-048  
REBUTTAL TESTIMONY OF  
TODD HANSEN

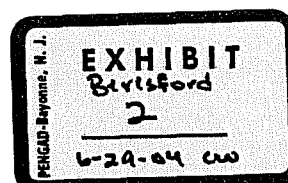
REBUTTAL TESTIMONY OF

TODD HANSEN

ON BEHALF OF

BERESFORD MUNICIPAL TELEPHONE COMPANY

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. **My name is Todd Hansen. I am the General Manager of Beresford Municipal Tele-**  
3 **phone Company ("Beresford"), whose address is 101 North Third Street, Beresford,**  
4 **South Dakota 57004.**

5 Q. What is the purpose of your testimony?

6 A. **I will provide rebuttal testimony to various statements made by Ron Williams in his**  
7 **testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-**  
8 **less).**

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. **I dispute Mr. Williams' characterization of events. To the best of my knowledge,**  
13 **Beresford took appropriate steps to investigate the cost and the processes involved**  
14 **with LNP and to explore its legal options.**

15 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
16 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
17 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
18 cal calls?"

19 A. **In its answer to Interrogatory 4., Western Wireless identifies the "serving tandem"**  
20 **as the Qwest LATA or local tandem, which is outside of Beresford's service terri-**  
21 **tory. (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal**  
22 **Testimony of Steven E. Watkins). Therefore, Mr. Williams' statement is not consis-**  
23 **tent with Beresford's current call routing practices, because it would require Beres-**



1       ford to route calls to a point outside of its service territory, other than via an EAS  
2       arrangement, as local. I note that in its answer to Interrogatory 7., Western Wire-  
3       less admits that there is no requirement for Beresford to route calls to the Qwest  
4       tandem and currently, Beresford does not do so. (See Western Wireless Response to  
5       Interrogatory 7 attached to the Rebuttal Testimony of Steven E. Watkins.) Further,  
6       Western Wireless admits that its interconnection agreement with Beresford does not  
7       require Beresford to route calls to the Qwest tandem. Rather, calls that terminate  
8       outside of Beresford's service territory, including calls to Western Wireless other  
9       than via EAS arrangements, are routed to interexchange carriers for termination.  
10      Pursuant to the interconnection agreement, traffic terminating to Western Wireless  
11      is routed to either an interexchange carrier or PrairieWave through an EAS ar-  
12      rangement. Therefore, it appears that Western Wireless' argument really is a bad  
13      faith attempt to change the agreement between the parties.

14    Q.     At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it  
15            is the originating carrier's responsibility to deliver local traffic for termination and that  
16            the costs associated with fulfilling that responsibility are not a number portability cost."  
17            What is your response to this statement?

18    A.     Mr. Williams' statements are inconsistent and should be rejected. First he argues  
19            that Beresford should be required to install new facilities to deliver ported calls to  
20            Western Wireless and then he argues that the cost of those facilities are not number  
21            portability costs. Further, as discussed at lines 19-23, page 1, and lines 1-13, page 2,  
22            Mr. Williams' suggestion that it is Beresford's responsibility to deliver traffic des-

1       tined to Western Wireless through a serving tandem is not consistent with the inter-  
2       connection agreement between Beresford and Western Wireless.

3   Q.    Would Western Wireless' routing proposal have impacts to Beresford beyond LNP?

4   A.    Yes. It is my understanding that Western Wireless' proposal would increase Beres-  
5       ford's costs. First, Western Wireless' proposal would require Beresford to pay for  
6       new facilities to the tandem provider that it does not need for any purpose other  
7       than to route calls to ported numbers to wireless carriers. Second, Beresford would  
8       most likely have to pay transit traffic charges to the tandem provider for transport-  
9       ing the traffic to the wireless carriers. Third, in response to Interrogatory 16.b.,  
10       Western Wireless indicates that Beresford would be required to pay reciprocal  
11       compensation on calls to ported numbers, even if Beresford does not pay compensa-  
12       tion on such calls today. (See Western Wireless Response to Interrogatory 16.b. at-  
13       tached to the Rebuttal Testimony of Steven E. Watkins.)

14   Q.    Is there any other impact?

15   A.    Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
16       trage scenario that could lead to the loss of access revenues. Today, certain calls to  
17       wireless carriers are routed to interexchange carriers. For example, if Beresford  
18       Customer A calls Western Wireless Customer B in an exchange where there is no  
19       direct connection and no EAS arrangement, Beresford Customer A incurs a toll  
20       charge. However, under Western Wireless' proposal, it is my understanding that if  
21       Beresford Customer A calls Western Wireless Customer B, who now has a number  
22       ported from Beresford, Beresford Customer A would be charged for a local call.  
23       Customers may be encouraged to "give up" their existing wireless numbers and ob-

1       tain wireline numbers for the sole purpose of porting that number to avoid toll  
2       charges. This is not only a bad public policy result, but also simply a bad faith at-  
3       tempt to avoid an important contract provision upon which Western Wireless has  
4       already agreed with our company.

5   Q.    Does this conclude your rebuttal testimony?

6   A.    Yes.

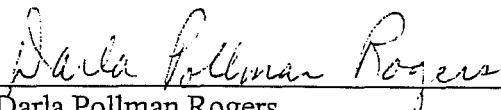
### CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
[tjw@gpgnlaw.com](mailto:tjw@gpgnlaw.com)  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

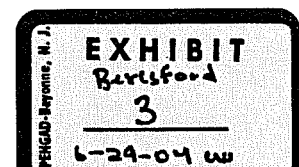
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IN THE MATTER OF THE PETITION  
OF BERESFORD MUNICIPAL TELE-  
PHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-048

**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF BERESFORD MUNICIPAL TELEPHONE  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF BERESFORD MUNICIPAL TELEPHONE  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
68508.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket  
set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your  
role in this Docket in the "companion" testimony that has been offered in this  
Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "companion" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to de-**

1           **velop the cost as shown on Exhibit 2. Please discuss where in your “compan-**  
2           **ion” testimony you describe this process.**

3    A.     The process that was used to compile and develop the cost per line in Exhibit 2 is  
4           described on pages four through six in my “companion” testimony.

5    **Q6.   What was the source of the data?**

6    A.     The data was derived from the books, financial records and managers of the  
7           RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
8           iffs, service order administration service bureaus, the number portability admini-  
9           stration center, a number portability database provider, and my professional ex-  
10          perience.

11   **Q7.   What was the purpose of obtaining that particular data?**

12   A.     To assist me in preparing an estimate of the costs to implement LNP for the  
13          RLEC.

14   **Q8.   Is this the type of data that experts in your field would ordinarily review in**  
15          **formulating an opinion concerning the costs of LNP?**

16   A.     Yes.

17   **Q9.   What use did you make of the data after you received it from the RLEC?**

18   A.     I have explained the use of the data on page six of my “companion” testimony.

19   **Q10.  Have you reached an opinion with a reasonable degree of professional cer-**  
20          **tainty as to the total non-recurring costs, excluding transport, to implement**  
21          **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
22          **year recovery period through an end user surcharge?**

1 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
2 \$55,905.00. Such costs were amortized over a recovery period of 60 months us-  
3 ing a rate of return of 11.25%. The total nonrecurring costs per month, excluding  
4 transport, amortized over five years is \$1,222.00.

5 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
6 **tainty as to the total recurring costs, excluding transport, to implement LNP**  
7 **that you have calculated for the RLEC and that will be recovered from end**  
8 **users on an ongoing monthly charge basis?**

9 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$578.00 per  
10 month.

11 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
12 **tainty as to the total cost, excluding transport, per line per month that would**  
13 **be charged to end-users if LNP were to be implemented by the RLEC?**

14 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
15 the total nonrecurring costs per month amortized over five years to the total recur-  
16 ring costs per month, both amounts excluding transport costs, and dividing this  
17 sum by the RLEC's total access lines. Surcharge and taxes were then applied to  
18 this quotient. The resulting cost per line per month was calculated to be \$1.46.

19 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
20 **tainty as to the total LNP costs and the monthly amount recovered from each**  
21 **end-user if the FCC determines that transport costs should be included in the**  
22 **LNP costs recovered from end-users?**



1 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
2 costs, including transport costs, were calculated to be \$3,757.00 per month. The  
3 resulting LNP cost per line, per month, including transport, surcharges and taxes,  
4 was calculated to be \$3.05.

5 **Q14. If FCC determines that transport costs should not be included in the end-**  
6 **user surcharge, will the transport cost still be incurred and who will pay**  
7 **these costs?**

8 A. Transport costs will have to be incurred to transport calls outside of the RLEC's  
9 service area. If the cost is not recovered through an end-user surcharge, and if  
10 these costs are not recovered from the wireless carrier, then the only party to pay  
11 these costs would be the RLEC.

12 **Q15. Is it your opinion that the calculations that you have just described fairly and**  
13 **reasonably describe the non-recurring and recurring costs for the RLEC to**  
14 **implement LNP and the end user charges to recover such costs?**

15 A. Yes.

16 **Q16. Does this conclude your testimony?**

17 A. Yes, it does.

18

**Beresford Municipal Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 16,612	
Internal Business Procedure Changes (1)	\$ 11,962	
Inter-carrier Testing	\$ 5,299	
Other Internal Costs (2)	\$ 20,723	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 1,119	
Total Non-recurring Costs excluding transport	\$ 55,905	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 57,306	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 135	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 293	
Total Recurring Monthly Costs excluding Transport	\$ 578	
Transport	\$ 1,926	
Total Recurring Monthly Costs including Transport	\$ 2,504	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,222	
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,253	
Total cost per month excluding transport	\$ 1,800	
Total cost per month including transport	\$ 3,757	
Access Lines excluding Lifeline	1,418	
LNP cost per line per month excluding transport (5)	\$ 1.27	\$ 1.46
LNP cost per line per month including transport (5)	\$ 2.65	\$ 3.05

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

## Exhibit 2

**Beresford Municipal Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$	16,612
Internal Business Procedure Changes (1)	\$	11,962
Inter-carrier Testing	\$	5,299
Other Internal Costs (2)	\$	20,723
LNP Query set up	\$	190
SOA Non-recurring set up charge (3)	\$	-
Customer Notification Costs	\$	1,119
Total Non-recurring Costs excluding transport	\$	55,905
Non recurring transport charges (4)	\$	1,401
Total Non-recurring Costs including transport	\$	57,306
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$	135
LNP Query Costs per month	\$	150
Other Recurring Costs	\$	293
Total Recurring Monthly Costs excluding Transport	\$	578
Transport	\$	1,926
Total Recurring Monthly Costs including Transport	\$	2,504
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$	1,222
Total Nonrecurring cost per month including transport amortized over five years	\$	1,253
Total cost per month excluding transport	\$	1,800
Total cost per month including transport	\$	3,757
Access Lines excluding Lifeline		1,418
LNP cost per line per month excluding transport (5)	\$	1.27
LNP cost per line per month including transport (5)	\$	2.65
	\$	1.46
	\$	3.05

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

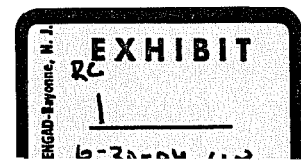
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IN THE MATTER OF THE PETITION  
OF RC COMMUNICATIONS, INC., AND  
ROBERTS COUNTY TELEPHONE CO-  
OPERATIVE ASSN. FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-056

**DIRECT PRE-FILED TESTIMONY OF  
PAMELA HARRINGTON**

May 14, 2004



1    **Q: Please state your business, name, and address?**

2    A: I am Pamela Harrington, General Manager ROBERTS COUNTY TELEPHONE  
3       COOPERATIVE ASSOICIATION, PO Box 197, 205 Main Street, New Effington  
4       SD 57255 Phone (605) 637-5211 Fax (605) 637-5302  
5       RC COMMUNICATIONS, INC, 205 Main Street, PO Box 196 New Effington SD  
6       57255, same phone number and fax number as mentioned before.

7    **Q: By whom are you employed and in what capacity?**

8    A: I am General Manager of Roberts County Telephone Cooperative (Roberts County)  
9       and RC Communications, Inc. Both companies are rural independent local  
10       exchange carriers that provide local exchange access and other telecommunications  
11       services to a total of 2165 access lines within their South Dakota service areas.  
12       which include the exchanges of New Effington, Claire City, Veblen. Peever.  
13       Wilmot and Summit. Of the total 2165 access lines 110 are lifeline customers.

14   **Q: Does your company have any direct points of interconnection with any wireless**  
15       **carrier and/or does your company provide any blocks of numbers for your**  
16       **company's rate centers to any wireless carrier?**

17   A: No

18   **Q: How do the local calling areas of your exchanges compare with those of the**  
19       **wireless carriers operating in your area?**

20   A: Wireless service areas are much more extensive.

21   **Q: Does your company provide any Extended Area Service (EAS) plans to its**  
22       **subscribers or to a connecting carrier's subscribers?**

23   A: Yes, to our own subscribers.

1    **Q: What is the current method of routing calls from your subscriber's landline**  
2       **phones to wireless phone numbers?**

3    A: Roberts County has points of interconnection (POI) with SDN and Qwest. The  
4       SDN connection is for toll completion and toll termination for InterLATA and Intra  
5       LATA traffic. The Qwest POI is a terminating trunk, only for Qwest IntraLATA  
6       traffic.

7    **Q: What is the number of wireless carriers authorized to serve in your company's**  
8       **service area?**

9    A: To the best of my knowledge, four.

10   **Q: Have any subscribers requested local number portability (LNP) from your**  
11       **company?**

12   A: To the best of my knowledge there has been none.

13   **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
14       **requested LNP from your company?**

15   A: No.

16   **Q: Have any wireless carriers requested LNP?**

17   A: Western Wireless.

18   **Q: How much time would be required for your company to provide LNP, if**  
19       **ordered by the Commission?**

20   A: Roberts County has not completed a specific implementation time line yet, but  
21       implementation will take a considerable amount of time.

1    **Q: In your experience as the general manager of Roberts County Telephone**  
2       **Coop. and RC Communications, have you seen increases or additions to the**  
3       **itemized fees on your customer's telephone bills?**

4    A. Yes.

5    **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
6       **their bills?**

7    A. I would expect the reaction to be very negative.

8    **Q: Is the public interest, convenience, and necessity served by requiring your**  
9       **company to implement LNP at this time?**

10   A, No. The current demand for LNP appears to be non-existent, as no Roberts County  
11       or RC Communications customers have requested LNP and the cost of LNP is  
12       significant.

13   **Q: Does this conclude your direct testimony?**

14   A: Yes.



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF RC COMMUNICATIONS, INC., AND  
ROBERTS COUNTY TELEPHONE CO-  
OPERATIVE ASSN. FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-056  
  
REBUTTAL TESTIMONY OF  
  
PAM HARRINGTON

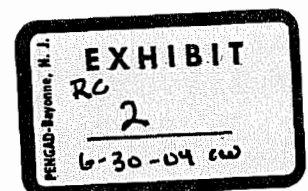
REBUTTAL TESTIMONY OF

PAM HARRINGTON

ON BEHALF OF

RC COMMUNICATIONS, INC. AND  
ROBERTS COUNTY TELEPHONE COOPERATIVE ASSN.

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Pamela Harrington. I am the General Manager of RC Communica-  
3 tions, Inc., and Roberts County Telephone Cooperative Assn. (collectively "Roberts  
4 County"), whose address is Main Street, New Effington, South Dakota 57255.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Rob-  
15 erts County took immediate steps to investigate the cost and the processes involved  
16 with LNP and to explore its legal options. Because Roberts County had no experi-  
17 ence with LNP, it took time to gather the pertinent information and to make the de-  
18 cision to seek a suspension of the requirement from the Commission. Further, the  
19 suspension petition itself took time and effort to prepare because Roberts County  
20 wanted to present as complete a petition as possible, accompanied by cost informa-  
21 tion as complete as possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.

Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "local calls?"

A. In its answer to Interrogatory 4., Western Wireless identifies the "serving tandem" as the Qwest LATA or local tandem, which is outside of Roberts County's service territory. (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal Testimony of Steven E. Watkins). Therefore, Mr. Williams' statement is not consistent with Roberts County's current routing practices, because it would require Roberts County to route calls to a point outside of its service territory as local. I note that in its answer to Interrogatory 7., Western Wireless admits that there is no requirement for Roberts County to route calls to the Qwest tandem. (See Western Wireless Response to Interrogatory 7 attached to the Rebuttal Testimony of Steven E. Watkins.) Rather, calls that terminate outside Roberts County's service territory, including calls to Western Wireless, are routed to interexchange carriers for termination. Therefore, it appears that Western Wireless' argument really is a bad faith attempt to change the agreement between the parties.

Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it is the originating carrier's responsibility to deliver local traffic for termination and that the costs associated with fulfilling that responsibility are not a number portability cost." What is your response to this statement?

A. Mr. Williams' statements are inconsistent and should be rejected. First he argues that Roberts County should be required to install new facilities to deliver ported calls to Western Wireless and then he argues that the cost of those facilities are not number portability costs.

1 Q. At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
2 Petitioners are inefficient in that they make little or no utilization of existing equipment  
3 and shared facilities currently used to exchange calls with other carriers." How do you  
4 respond?

5 A. The routing methods reflected in the cost exhibit attached to Roberts County's Peti-  
6 tion are based on the current routing arrangements that Roberts County has in  
7 place with other carriers, namely, calls that are dialed on a local 7-digit basis are  
8 routed via direct connections. Therefore, if calls to numbers ported to a carrier are  
9 to be dialed on a local 7-digit basis, a direct connection needs to be established be-  
10 tween the carriers.

11 Q. Would Western Wireless' routing proposal have impacts to Roberts County beyond  
12 LNP?

13 A. Yes. It is my understanding that Western Wireless' proposal would increase Rob-  
14 erts County's costs. First, Western Wireless' proposal would require Roberts  
15 County to pay for new facilities to the tandem provider that it does not need for any  
16 purpose other than to route calls to ported numbers to wireless carriers. Second,  
17 Roberts County would most likely have to pay transit traffic charges to the tandem  
18 provider for transporting the traffic to the wireless carriers. Third, in response to  
19 Interrogatory 16.b., Western Wireless indicates that Roberts County would be re-  
20 quired to pay reciprocal compensation on calls to ported numbers, even if Roberts  
21 County does not pay compensation on such calls today. (See Western Wireless Re-  
22 sponse to Interrogatory 16.b. attached to the Rebuttal Testimony of Steven E. Wat-  
23 kins.)

1 Q. Is there any other impact?

2 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
3 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
4 wireless carriers are routed to interexchange carriers. For example, if Roberts  
5 County Customer A calls Western Wireless Customer B, Roberts County Customer  
6 A incurs a toll charge. However, under Western Wireless' proposal, it is my under-  
7 standing that if Roberts County Customer A calls Western Wireless Customer B,  
8 who now has a number ported from Roberts County, Roberts County Customer A  
9 would be charged for a local call. Customers may be encouraged to "give up" their  
10 existing wireless numbers and obtain wireline numbers for the sole purpose of port-  
11 ing that number to avoid toll charges. This is not only a bad public policy result,  
12 but also simply a bad faith attempt to avoid an important contract provision upon  
13 which Western Wireless has already agreed with our company.

14 Q. Does this conclude your rebuttal testimony?

15 A. Yes.

CERTIFICATE OF SERVICE

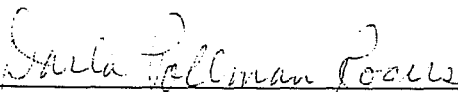
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers /  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

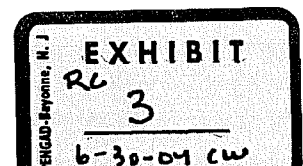
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IN THE MATTER OF THE PETITION  
OF RC COMMUNICATIONS, INC., AND  
ROBERTS COUNTY TELEPHONE CO-  
OPERATIVE ASSN. FOR SUSPENSION  
OR MODIFICATION OF § 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934  
AS AMENDED

Docket No. TC04-056

**DIRECT TESTIMONY OF DAN DAVIS ON BEHALF OF  
RC COMMUNICATIONS, INC., AND ROBERTS COUNTY  
TELEPHONE COOPERATIVE ASSN. REGARDING  
COMPANY-SPECIFIC COST DATA**

May 14, 2004



1                   **DIRECT TESTIMONY OF DAN DAVIS ON BEHALF OF**  
2                   **RC COMMUNICATIONS, INC., AND ROBERTS COUNTY**  
3                   **TELEPHONE COOPERATIVE ASSN. REGARDING**  
4                   **COMPANY-SPECIFIC COST DATA**  
5

6   **Q1.   Please State your name, Employer, Business Address and Telephone Num-**  
7       **ber.**

8  
9   A.   My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
10       My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
11       68508.

12   **Q2.   On whose behalf are you testifying?**

13  
14   A.   I am testifying on behalf of the Company identified in the caption of the docket  
15       set out above. I will refer to this Company as the "RLEC".

16   **Q3.   Have you provided your background information and an explanation of your**  
17       **role in this Docket in the "companion" testimony that has been offered in this**  
18       **Docket?**

19   A.   Yes, I have.

20   **Q4.   Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

21   A.   Yes, in conjunction with members of the professional staff of TELEC, I was re-  
22       sponsible for the preparation of Exhibit 1 as was attached to the Petition and I was  
23       also responsible for the preparation of supporting information prepared in connec-  
24       tion with the responses to the discovery requests of Western Wireless. I was also  
25       responsible for the preparation of Exhibit 2 that is attached to this testimony.

26   **Q5.   In your "companion" testimony you have explained the line items that com-**  
27       **prise Exhibit 2 and the process used to compile the data that was used to de-**



1           **velop the cost as shown on Exhibit 2. Please discuss where in your “compan-**  
2           **ion” testimony you describe this process.**

3    A.     The process that was used to compile and develop the cost per line in Exhibit 2 is  
4           described on pages four through six in my “companion” testimony.

5    **Q6.    What was the source of the data?**

6    A.     The data was derived from the books, financial records and managers of the  
7           RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
8           iffs, service order administration service bureaus, the number portability admini-  
9           stration center, a number portability database provider, and my professional ex-  
10          perience.

11   **Q7.    What was the purpose of obtaining that particular data?**

12   A.     To assist me in preparing an estimate of the costs to implement LNP for the  
13          RLEC.

14   **Q8.    Is this the type of data that experts in your field would ordinarily review in**  
15          **formulating an opinion concerning the costs of LNP?**

16   A.     Yes.

17   **Q9.    What use did you make of the data after you received it from the RLEC?**

18   A.     I have explained the use of the data on page six of my “companion” testimony.

19   **Q10.   Have you reached an opinion with a reasonable degree of professional cer-**  
20          **tainty as to the total non-recurring costs, excluding transport, to implement**  
21          **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
22          **year recovery period through an end user surcharge?**

1 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
2 \$74,199.00. Such costs were amortized over a recovery period of 60 months us-  
3 ing a rate of return of 11.25%. The total nonrecurring costs per month, excluding  
4 transport, amortized over five years is \$1,623.00.

5 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
6 **tainty as to the total recurring costs, excluding transport, to implement LNP**  
7 **that you have calculated for the RLEC and that will be recovered from end**  
8 **users on an ongoing monthly charge basis?**

9 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$880.00 per  
10 month.

11 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
12 **tainty as to the total cost, excluding transport, per line per month that would**  
13 **be charged to end-users if LNP were to be implemented by the RLEC?**

14 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
15 the total nonrecurring costs per month amortized over five years to the total recur-  
16 ring costs per month, both amounts excluding transport costs, and dividing this  
17 sum by the RLEC's total access lines. Surcharge and taxes were then applied to  
18 this quotient. The resulting cost per line per month was calculated to be \$1.41.

19 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
20 **tainty as to the total LNP costs and the monthly amount recovered from each**  
21 **end-user if the FCC determines that transport costs should be included in the**  
22 **LNP costs recovered from end-users?**

1 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
2 costs, including transport costs, were calculated to be \$12,531.00 per month. The  
3 resulting LNP cost per line, per month, including transport, surcharges and taxes,  
4 was calculated to be \$7.07.

5 **Q14. If FCC determines that transport costs should not be included in the end-**  
6 **user surcharge, will the transport cost still be incurred and who will pay**  
7 **these costs?**

8 A. Transport costs will have to be incurred to transport calls outside of the RLEC's  
9 service area. If the cost is not recovered through an end-user surcharge, and if  
10 these costs are not recovered from the wireless carrier, then the only party to pay  
11 these costs would be the RLEC.

12 **Q15. Is it your opinion that the calculations that you have just described fairly and**  
13 **reasonably describe the non-recurring and recurring costs for the RLEC to**  
14 **implement LNP and the end user charges to recover such costs?**

15 A. Yes.

16 **Q16. Does this conclude your testimony?**

17 A. Yes, it does.

18

**RC Communications Inc./Roberts County Telephone**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 29,900	
Internal Business Procedure Changes (1)	\$ 15,318	
Intercarrier Testing	\$ 4,915	
Other Internal Costs (2)	\$ 22,319	
LNP Query set up	\$ 380	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 1,367	
Total Non-recurring Costs excluding transport	\$ 74,199	
Non recurring transport charges (4)	\$ 2,801	
Total Non-recurring Costs including transport	\$ 77,000	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 180	
LNP Query Costs per month	\$ 300	
Other Recurring Costs	\$ 400	
Total Recurring Monthly Costs excluding Transport	\$ 880	
Transport	\$ 9,967	
Total Recurring Monthly Costs including Transport	\$ 10,847	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,623	
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,684	
Total cost per month excluding transport	\$ 2,503	
Total cost per month including transport	\$ 12,531	
Access Lines excluding Lifeline	2,037	
LNP cost per line per month excluding transport (5)	\$ 1.23	\$ 1.41
LNP cost per line per month including transport (5)	\$ 6.15	\$ 7.07

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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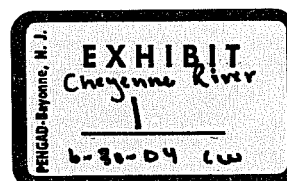
IN THE MATTER OF THE PETITION OF  
CHEYENNE RIVER SIOUX TRIBE  
TELEPHONE AUTHORITY FOR SUS-  
PENSION OR MODIFICATION OF 47  
U.S.C § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-085

**DIRECT PRE-FILED TESTIMONY OF**

**J.D. WILLIAMS**

**May 17, 2004**



**DIRECT PRE-FILED TESTIMONY OF  
J.D. WILLIAMS**

**Q: What is your name and address?**

A: My name is J.D. Williams. My business address is P.O. Box 810, 100 Main Street, Eagle Butte, SD 57625. My business phone number is (605) 964-2600.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Cheyenne River Sioux Tribe Telephone Authority (CRST). CRST is a rural telephone company engaged in the provision of general telecommunications services in the State of South Dakota.

**Q: How many access lines does CRST have?**

A: CRST has 3,499 access lines. Excluding lifeline customers, CRST has only 2,365 access lines.

**Q: Please describe the interconnection arrangements between CRST and other carriers.**

A: CRST has points of interconnection (POI) with SDN, Qwest and Western Wireless. The SDN connection is for toll completion and toll terminating for InterLATA, IntraLATA (non-Qwest terminating), operator services, and verification trunking. The Qwest POI is a terminating trunk, only for Qwest IntraLATA traffic. CRST has two Western Wireless interconnections. One is a Cellular Type 1A MF trunk which is a two-way trunk. The second POI with Western Wireless is a Cellular Type 2B SS7 two way trunk.

**Q: Are there any wireless carriers authorized to serve in your company's service area?**

A: To my knowledge, Western Wireless and Verizon are authorized to serve this area.

**Q: Have any subscribers requested local number portability (LNP) from your company?**

1 A: No. To the best of my knowledge, there have not been any subscribers that have re-  
2 requested LNP.

3 **Q: Are there any existing capital investments for broadband that will be diverted if**  
4 **your company must deploy LNP?**

5 A: Yes. Any amount of capital investment that is diverted to the implementation of LNP  
6 will reduce needed capital from broadband investments.

7 **Q: How much time would be required for CRST to provide LNP?**

8 A: If the Commission denies the LNP petition, CRST believes that it will need approxi-  
9 mately ten weeks to implement LNP.

10 **Q: In your experience as the general manager of CRST have you seen increases or ad-**  
11 **ditions to the itemized fees on your customer's telephone bills?**

12 A: Yes. Many customers tell me that there have been too many new fees or fee increases in  
13 the past few years.

14 **Q: What do you expect your customer's reaction to be to any new LNP fees on their**  
15 **bills?**

16 A: We expect the reaction to be very negative. The fees would make CRST's service offer-  
17 ing less competitive with the services provided by wireless carriers and, therefore, sub-  
18 scribership may fall.

19 **Q: Is the public interest, convenience, and necessity served by requiring CRST to im-**  
20 **plement LNP at this time?**

21 A: No. The current demand for LNP appears to be non-existent, as no CRST customer has  
22 ever made an inquiry to CRST regarding LNP or a request for LNP, and the cost of LNP  
23 is significant.

1    **Q:    Does this conclude your direct testimony?**

2    A:    Yes. I also reserve the opportunity to revise or modify this pre-filed direct testimony at  
3           or before the hearing if I receive additional information pertaining to the issues I pre-  
4           sented herein.



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF CHEYENNE RIVER SIOUX TRIBE  
TELEPHONE AUTHORITY FOR SUS-  
PENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-085  
REBUTTAL TESTIMONY OF  
J. D. WILLIAMS

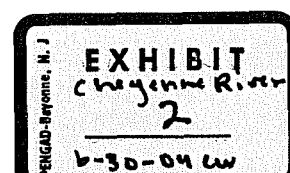
REBUTTAL TESTIMONY OF

J. D. WILLIAMS

ON BEHALF OF

CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY

June 15, 2004



1 Q. Please state your name, business name and address.

2 A. My name is J. D. Williams. I am the General Manager of Cheyenne River Sioux  
3 Tribe Telephone Authority ("CRSTTA"), whose address is P. O. Box 810, Eagle  
4 Butte, South Dakota 57625.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004,  
15 CRSTTA took immediate steps to investigate the cost and the processes involved  
16 with LNP and to explore its legal options. Because CRSTTA had no experience with  
17 LNP, it took time to gather the pertinent information and to make the decision to  
18 seek a suspension of the requirement from the Commission. Further, the suspension  
19 petition itself took time and effort to prepare because CRSTTA wanted to present as  
20 complete a petition as possible, accompanied by cost information as complete as  
21 possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.

Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "local calls?"

A. In its answer to Interrogatory 4., Western Wireless identifies the "serving tandem" as the Qwest LATA or local tandem, which is outside of CRSTTA's service territory. (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal Testimony of Steven E. Watkins). Therefore, Mr. Williams' statement is not consistent with CRSTTA's current call routing practices, because it would require CRSTTA to route calls to a point outside of its service territory as local. Further, Western Wireless admits that its interconnection agreement with CRSTTA does not require CRSTTA to route calls to the Qwest tandem. Rather, calls that terminate outside CRSTTA's service territory, including calls to Western Wireless within the CRSTTA exchange(s) where Western Wireless does not have a direct connection, are routed to interexchange carriers for termination. Only traffic routed to Western Wireless via a direct connection within a CRSTTA exchange is routed as "local traffic." Therefore, it appears that Western Wireless' argument really is a bad faith attempt to change the agreement between the parties.

Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it is the originating carrier's responsibility to deliver local traffic for termination and that the costs associated with fulfilling that responsibility are not a number portability cost." What is your response to this statement?

A. Mr. Williams' statements are inconsistent and should be rejected. First he argues that CRSTTA should be required to install new facilities to deliver ported calls to Western Wireless and then he argues that the cost of those facilities are not number

1 portability costs. Further, as discussed at lines 3-16 above, Mr. Williams' suggestion  
2 that it is CRSTTA's responsibility to deliver traffic destined to Western Wireless  
3 through a serving tandem is not consistent with the interconnection agreement be-  
4 tween CRSTTA and Western Wireless.

5 Q. At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
6 Petitioners are inefficient in that they make little or no utilization of existing equipment  
7 and shared facilities currently used to exchange calls with other carriers." How do you  
8 respond?

9 A. The routing methods reflected in the cost exhibit attached to CRSTTA's Petition are  
10 based on the current routing arrangements that CRSTTA has in place with other  
11 carriers, namely, calls that are dialed on a local 7-digit basis are routed via direct  
12 connections. For example, where there is a direct connection between CRSTTA and  
13 Western Wireless, customers in that exchange can call a Western Wireless customer  
14 on a local 7-digit basis. Therefore, if calls to numbers ported to a carrier are to be  
15 dialed on a local 7-digit basis, a direct connection needs to be established between  
16 the carriers.

17 Q. Would Western Wireless' routing proposal have impacts to CRSTTA beyond LNP?

18 A. Yes. It is my understanding that Western Wireless' proposal would increase  
19 CRSTTA's costs. First, Western Wireless' proposal would require CRSTTA to pay  
20 for new facilities to the tandem provider that it does not need for any purpose other  
21 than to route calls to ported numbers to wireless carriers. Second, CRSTTA would  
22 most likely have to pay transit traffic charges to the tandem provider for transport-  
23 ing the traffic to the wireless carriers. Third, in response to Interrogatory 16.b.,

1 Western Wireless indicates that CRSTTA would be required to pay reciprocal com-  
2 pensation on calls to ported numbers, even if CRSTTA does not pay compensation  
3 on such calls today. (See Western Wireless Response to Interrogatory 16.b. at-  
4 tached to the Rebuttal Testimony of Steven E. Watkins.)

5 Q. Is there any other impact?

6 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
7 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
8 wireless carriers are routed to interexchange carriers. For example, if CRSTTA  
9 Customer A calls Western Wireless Customer B in an exchange where there is no  
10 direct connection and no EAS arrangement, CRSTTA Customer A incurs a toll  
11 charge. However, under Western Wireless' proposal, it is my understanding that if  
12 CRSTTA Customer A calls Western Wireless Customer B, who now has a number  
13 ported from CRSTTA, CRSTTA Customer A would be charged for a local call.  
14 Customers may be encouraged to "give up" their existing wireless numbers and ob-  
15 tain wireline numbers for the sole purpose of porting that number to avoid toll  
16 charges. This is not only a bad public policy result, but also simply a bad faith at-  
17 tempt to avoid an important contract provision upon which Western Wireless has  
18 already agreed with our company.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes.

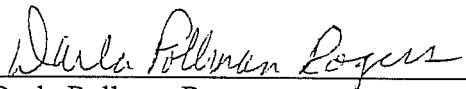
## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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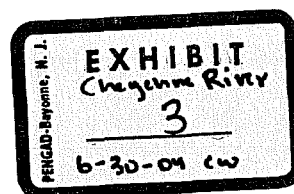
IN THE MATTER OF THE PETITION  
OF CHEYENNE RIVER SIOUX TRIBE  
TELEPHONE AUTHORITY FOR SUS-  
PENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-085

**DIRECT PRE-FILED TESTIMONY OF**

**DOUGLAS J. NEFF**

**May 17, 2004**



**DIRECT PRE-FILED TESTIMONY OF**  
**DOUGLAS J. NEFF**

**Q: What is your name and address?**

A: My name is Douglas J. Neff. My business address is 1501 Regents Blvd., Suite 100, Fircrest, WA 98466. My business phone number is (253) 566-7070.

**Q: By whom are you employed and in what capacity?**

A: I am the shareholder in charge of the telecommunications services for the Certified Public Accounting firm of Johnson, Stone & Pagano, P.S. My duties and responsibilities at Johnson, Stone & Pagano, P.S. include accounting and consulting services to smaller local exchange carriers in primarily rural areas. My work involves preparation of cost separations studies, analysis of industry matters and regulatory requirements and reporting, and preparation of financial statements and tax returns.

**Q: What is your educational and business background?**

A: I received a Bachelor of Arts Degree in Business Administration from the University of Puget Sound in Tacoma, Washington. I am a Certified Public Accountant, licensed in South Dakota and Washington. I have been active in the telecommunications industry since 1986, providing consulting and accounting services to small local exchange carriers in primarily rural areas.

**Q: On what behalf are you testifying in the proceeding?**

A: My direct profiled testimony is submitted on behalf of the Cheyenne River Sioux Tribe Telephone Authority ("Telephone Authority").

**Q: What is the purpose of your testimony?**



1 A: I will provide testimony on cost issues of implementing Local Number Portability  
2 (“LNP”) that is pertinent to the Telephone Authority’s cost exhibit.

3 **Q: What are the anticipated costs of implementing LNP?**

4 A: The anticipated costs of implementing LNP are categorized in two areas, nonre-  
5 curring and recurring costs. I have also further provided anticipated costs for  
6 transport where a direct interconnection is not present. The LNP petition filed on  
7 behalf of the Telephone Authority included an Exhibit detailing the estimated  
8 implementation costs for LNP. This Exhibit is attached as Exhibit (A). Each of  
9 the cost elements will be defined in the following paragraphs.

10 I. LNP Nonrecurring Costs

11 The nonrecurring costs of LNP include the costs identified below.

12 *Switch Upgrade Costs:*

13 The Telephone Authority utilizes a Nortel Networks (Nortel) DMS-10 as its wire-  
14 line switching platform. The Telephone Authority determined from discussions  
15 with Nortel personnel that the existing generic software will not support LNP.

16 Based on information provided to the Telephone Authority, the nonrecurring cost  
17 estimate for the LNP software feature was \$22,000.

18 *Internal business procedure changes*

19 The implementation of LNP will require the Telephone Authority to implement  
20 new administrative policies and procedures. The nonrecurring costs included  
21 training for six (6) customer service representatives and coordination of service  
22 order procedures with the central office technicians. It also includes the estimated  
23 cost of local routing number assignment training and the engineering services of

1 the Telephone Authority's engineers, Kadrmas, Lee & Jackson for general engi-  
2 neering services used in the LNP implementation planning process. The costs  
3 were estimated as follows:

4 The training of six (6) customer service representatives and the coordination of  
5 service order procedures with the central office technicians was estimated to re-  
6 quire 18 hours at an approximate loaded labor rate of \$20.00 per hour for a cost of  
7 \$367.

8 The cost of training company employees in connection with Local Routing Num-  
9 ber Assignment was estimated at \$1,000.

10 The estimated central office technician costs relating to administrative procedure  
11 changes was estimated at 27 hours at an approximate loaded labor rate of \$37.50  
12 per hour for a cost of \$1,000.

13 Estimated engineering costs from Kadrmas, Lee & Jackson in connection with  
14 LNP implementation are \$3,700.

15 *intercarrier Testing*

16 This cost estimate addresses the anticipated activities to program a ported  
17 number in the central office, set-up of appropriate switching functions and testing  
18 the functionality of the LNP software. This estimate included internal and exter-  
19 nal central office technician time of 160 hours at a labor rate of \$37.50 per hour  
20 including benefits which totaled approximately \$6,000.

21 *Other internal costs*

22 The implementation of the LNP DMS-10 software will require outside training at  
23 a Nortel training facility. The estimated costs include training costs, the time of

1 three (3) central office technicians at the training facility, travel, meals and lodg-  
2 ing. Total estimated cost, \$5,108.

### 3 *LNP Query set-up*

4 The estimated internal costs to establish and set-up a ported out number 15 was  
5 estimated by reviewing the NECA Tariff FCC No. 5 and includes the LNP order  
6 charge and estimated administrative office time and central office technician time.  
7 The LNP order charge was estimated at \$48. The office and central office techni-  
8 cian time to set-up accounts was estimated at \$320.

### 9 *Service Order Administration ("SOA")*

10 As part of the LNP implementation, the Telephone Authority must select a  
11 provider to administer updates to the Number Portability Administration Center  
12 (NPAC) LNP database. The SOA cost estimate was based on a survey of SOA  
13 providers and was estimated to be \$1,000.

### 14 *Customer Notification Costs*

15 The implementation of LNP likely will generate confusion among the Telephone  
16 Authority subscribers. The Telephone Authority plans to develop advertising and  
17 bill inserts to educate subscribers about LNP and what it means to the subscribers.  
18 The cost of developing advertising and bill inserts was determined by reviewing  
19 costs of prior notifications, local newspaper advertising and the estimated admin-  
20 istrative staff and legal review time to prepare a notification. This cost was esti-  
21 mated at \$995.

1        *Nonrecurring transport costs*

2        Where a direct transport connection is unavailable to wireless carriers requesting  
3        or that might request LNP, the Telephone Authority estimated the cost of a direct  
4        transport facility connection from the Telephone Authority's exchanges to each  
5        wireless carrier. The estimated cost of a direct transport connection, estimated at  
6        \$2,306, was determined by estimating the internal and external central office  
7        technician labor costs, with benefits, to install, set-up and establish the transport  
8        paths. This process was estimated to require approximately 60 hours at a rate of  
9        \$37.50 per hour.

10                    II. LNP Monthly Recurring Costs

11        The recurring costs of LNP include the costs identified below.

12        *LNP query costs per month*

13        With the implementation of LNP, the Telephone Authority will incur charges for  
14        each LNP query that is launched. The LNP query costs were based on estimates  
15        provided by SOA providers.

16        *Service order administration*

17  
18        The Telephone Authority must select a provider to administer updates to the  
19        NPAC LNP database. The SOA cost estimate was based on a survey of SOA  
20        providers. The estimate includes a monthly recurring fee and a yearly cost for 10  
21        ports for a total estimated cost of \$800.

22        *Switch maintenance costs per month*

23        Nortel provides annual software upgrades for the Telephone Authority's DMS-10.  
24        An assumption was made that 5% of future annual software upgrades would be

caused by future changes to LNP software. The estimated monthly cost of these upgrades, including labor and benefit costs for Telephone Authority employees involved with the upgrades, was estimated at \$185.

*Recurring transport costs*

Recurring transport costs represents the costs and revenues associated with lower telecommunications network usage and the potential loss of operating revenues associated with LNP. To quantify the potential costs and lost revenues, the Telephone Authority's publicly available 2002 traffic study was reviewed. The estimated total annual minutes-of-use lost due to an estimated 10 ported numbers was calculated. The total lost minutes-of-use were increased by a factor of 2 to estimate lost toll minutes-of-use and potential local and access rate increases. These assumptions were applied only to those wireless carriers not directly connected to the Telephone Authority. The total recurring transport costs were estimated as follows:

Total annual minutes-of-use	66,156,563	
Divided by access lines	<u>3,499</u>	
Estimated lost access minutes-of-use	18,907	(minutes-of-use per year)
Estimated ported lines	x 10	
Weighting factor	<u>x 2</u>	
Minutes-of-use per year	378,140	
Intrastate terminating access rate	<u>.1168</u>	(composite)
Estimated lost annual access revenues	\$ 44,166	

1 Estimated additional central office technician labor including benefits to monitor,  
2 change or adjust switching registers for ported numbers:

3 Approximately 144 hours annually at \$37.50 per hour 5,400

4 Total estimated annual recurring transport cost \$ 49,566

5 Estimated monthly recurring transport cost \$ 4,126

6 **Q: How were the number of “ported out” numbers determined?**

7 A: For purposes of the estimates provided, a factor of .5% was applied to the Tele-  
8 phone Authority’s 2,365 access lines, which excludes lifeline customers, rounded  
9 to the nearest 10. This resulted in an estimate of 10 ports per year.

10 **Q: What additional costs could be incurred if the porting interval were short-**  
11 **ened?**

12 A: If the porting interval is shortened, the Telephone Authority would need to have  
13 internal and external technical expertise readily available to perform the required  
14 porting procedures. Additional costs that would be incurred are unknown at this  
15 time.

16 **Q: How would the cost estimates change if the Telephone Authority must**  
17 **implement only Intramodal (wireline to wireline) LNP?**

18 A: As I currently understand how the Telephone Authority’s network functions, I am  
19 unaware of any significant changes to the cost estimates provided to implement  
20 intramodal LNP versus intermodal LNP at this time.

21 **Q: Does this conclude your direct testimony?**

22 A: Yes.

## Exhibit (A)

Exhibit (A)

Cheyenne River Sioux Tribe Telephone Authority  
Estimated Local Number Portability Costs

<u>LNP Nonrecurring Costs</u>	<u>Without Transport</u>	<u>With Transport</u>
Switch upgrade costs	\$ 22,000	\$ 22,000
Internal business procedure changes	6,067	6,067
Intercarrier testing	6,000	6,000
Other internal costs	5,108	5,108
LNP query set up	368	368
Service order administration	1,000	1,000
Customer notification costs	<u>995</u>	<u>995</u>
Nonrecurring transport costs		<u>2,306</u>
<b>TOTAL NONRECURRING COSTS</b>	<b>\$ <u>41,538</u></b>	<b>\$ <u>43,844</u></b>

<u>LNP Monthly Recurring Costs</u>		
LNP query costs per month	\$ 300	\$ 300
Service order administration	800	800
Switch maintenance costs per month	<u>185</u>	<u>185</u>
Recurring transport costs		<u>4,126</u>
<b>TOTAL RECURRING MONTHLY COSTS</b>	<b>\$ <u>1,285</u></b>	<b>\$ <u>5,411</u></b>

Monthly Cost Calculations per Access Line

Access lines excluding lifeline	2,365	
Total nonrecurring costs per month amortized over a five year period	\$ 692	\$ 731
Total monthly recurring costs	<u>1,285</u>	<u>5,411</u>
Total monthly costs	<u>\$ 1,977</u>	<u>\$ 6,142</u>
LNP costs per access lines	<u>\$ 0.84</u>	<u>\$ 2.60</u>



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF CHEYENNE RIVER SIOUX TRIBE  
TELEPHONE AUTHORITY FOR SUS-  
PENSION OR MODIFICATION OF  
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Docket No. TC04-085  
REBUTTAL TESTIMONY OF  
DOUGLAS J. NEFF

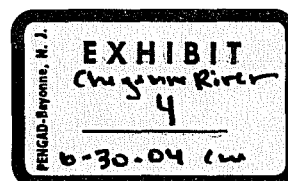
REBUTTAL TESTIMONY OF

DOUGLAS J. NEFF

ON BEHALF OF

CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY

June 14, 2004



1 Q: What is your name and address?

2 A: My name is Douglas J. Neff. My business address is 1501 Regents Blvd., Suite 100,  
3 Fircrest, WA 98466. My business phone number is (253) 566-7070.

4 Q: What is the purpose of your testimony?

5 A: I will provide rebuttal testimony on the Cheyenne River Sioux Tribe Telephone Au-  
6 thority ("CRSTTA") cost exhibit included in Mr. Ron Williams May 28, 2004 testi-  
7 mony on behalf of Western Wireless.

8 Q: Do you dispute any of the costs changed by Mr. Ron Williams in his May 28, 2004 cost  
9 exhibit for CRSTTA?

10 A: Yes. I dispute the highlighted cells noted on Mr. Ron Williams May 28, 2004 cost  
11 exhibit as follows:

12 *SOA Non-recurring set-up charge*

13 Mr. Ron Williams' cost exhibit shows no costs for SOA non-recurring set-up charge  
14 because, according to Mr. Williams, this charge is for an automated SOA interface  
15 which cannot be justified based on the estimated port volumes.

16 As noted in my earlier testimony, the CRSTTA cost estimate of \$1,000 for SOA non-  
17 recurring set-up charge was based on a survey of SOA providers obtained under a  
18 Non Disclosure Agreement. That survey of SOA providers did not differentiate the  
19 estimated \$1,000 non-recurring fee from a manual or automated SOA interface. In  
20 any event, it appears that Western Wireless does not challenge the dollar amount of  
21 \$1,000 estimated by CRSTTA. Rather, it challenges whether an automated SOA in-  
22 terface can be justified. (See, Western Wireless response to Interrogatory 10.b. at-  
23 tached to the Rebuttal Testimony of Steven E. Watkins).

24 *Non- recurring transport charges*

1 Mr. Ron Williams' cost exhibit shows a cost of \$400, whereas the CRSTTA cost ex-  
2 hibit shows a cost of \$2,306. Mr. Ron Williams provides the cost of \$400 with no  
3 explanation as to how he arrived at that cost. However, in its response to Interroga-  
4 tory 14.a., Western Wireless states that the \$400 is the estimated non-recurring  
5 charge for reconfiguration of the existing trunk group to the Qwest tandem. As in-  
6 dicated in my testimony, "in the case where a direct transport connection is unavail-  
7 able, the cost estimate of \$2,306 was determined by estimating internal and external  
8 central office technician labor costs with benefits to install, set-up and establish  
9 transport paths at \$37.50 per hour for approximately 60 hours." This cost was es-  
10 timated to not only reconfigure the existing trunk group to the tandem, but also es-  
11 timate configuring local trunk groups from local wireless facilities to the CRSTTA  
12 central office.

#### 13 *SOA Monthly Charge*

14 Mr. Ron Williams' cost exhibit shows an amount of \$13 per month. Mr. Ron Wil-  
15 liams indicates in his testimony that "Most of their other Petitioners have similarly  
16 forecasted low porting volumes that do not justify an automated SOA interface and  
17 a high minimum monthly recurring charges," with no support provided as to how  
18 the \$13 SOA monthly charge was determined. In answer to Interrogatory 13.a.,  
19 Western Wireless states that the estimated per port line charge for SOA services is  
20 \$15. The CRSTTA estimate was based upon a survey of SOA providers and in-  
21 cluded a monthly recurring fee and a yearly cost that totaled \$800 per month.

#### 22 *Switch Maintenance Costs*

23 Mr. Ron Williams argues that there should be no switch maintenance costs assigned  
24 to LNP. Each year, Nortel provides annual software upgrades to the CRSTTA  
25 DMS-10. These annual upgrades replace or enhance many of the calling features or

1 operational aspects of the software of the DMS-10. I assumed that approximately  
2 5% of an annual software upgrade would be attributed to future LNP enhance-  
3 ments, producing an estimated monthly cost associated with LNP to be approxi-  
4 mately \$185.

5 *Transport*

6 Mr. Ron Williams estimates transport costs of \$49. Again, Mr. Ron Williams pro-  
7 vides an estimate of \$49 for monthly recurring transport, but no calculations or  
8 facts to support the cost. In response to Interrogatory 14, however, Western Wire-  
9 less states that the monthly recurring cost was calculated using the following for-  
10 mula: (Annual Ports x 2.5 years) x (local calls per day x length of calls x days per  
11 month) x transit rate. The recurring monthly transport costs in my cost exhibit  
12 equated the potential loss of subscribers and resulting cost shifts to the remaining  
13 subscribers, interexchange access service providers and the impact on long distance  
14 network service revenues to the cost to CRSTTA in the form of a lost monthly re-  
15 curring revenue flow.

16 This lost recurring revenue was estimated by reviewing the 2002 publicly available  
17 traffic study and calculating estimated revenues lost for an estimated 10 ported  
18 numbers.

19 Q. Do you have any other comments about Mr. Williams testimony with respect to SOA  
20 costs and transport costs?

21 A. Yes. Mr. Williams' revised cost estimates are based on the Petitioner's projection  
22 that there will be a low volume of ports. Western Wireless, however, in response to  
23 Interrogatory 13.f., estimates that it will port 230 numbers from CRSTTA over a  
24 five (5) year period, which is 46 ports per year. If you assume that Verizon Wireless  
25 will have a similar number of ports, the total number of ports per year would be 92.

Pursuant to Western Wireless' SOA methodology, the SOA cost would be \$115 per month (as compared to \$13 per month in Mr. Williams' cost exhibit) and \$1380 per year. Similarly, under Western Wireless' formula, transport costs, based on 46 ports, would be \$226.26 per month (as compared to \$49 per month in Mr. Williams' cost exhibit) and \$2715 per year. (I have calculated transport costs to Verizon Wireless only and not Western Wireless because Western Wireless has a direct connection to CRSTTA.) Thus, under Western Wireless' assumptions and formulas, the cost of LNP will be greater than that reflected in Mr. Williams' cost exhibit.

Q. Do you have any other comments?

A. Yes. If Western Wireless' estimate of the number of ports is correct, there will be far fewer CRSTTA subscribers and, therefore, the per subscriber cost of LNP will be much greater than the per subscriber cost projected by Western Wireless. For example, if CRSTTA loses 230 lines, the per line cost of LNP as calculated by Western Wireless would increase to \$0.9259 per line and if CRSTTA loses 230 lines to each wireless carrier, for a total of 460 lines, the per line cost of LNP as calculated by Western Wireless would increase to \$1.469 per line including transport.

Q. Is there a way to try to better estimate how many ports may occur and, therefore, more accurately determine the per subscriber cost of LNP?

A. Yes. A review of the actual number of wireline to wireless ports in other rural areas over some period of time may provide a better indication of how many CRSTTA customers may chose to port their number to a wireless carriers.

Q: Does this conclude your rebuttal testimony?

A: Yes.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fourteenth day of June, 2004.

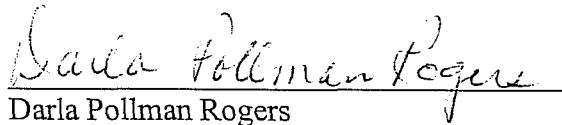
  
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Telephone (605) 224-788

Exhibit (A)

Cheyenne River Sioux Tribe Telephone Authority  
Estimated Local Number Portability Costs

<u>LNP Nonrecurring Costs</u>	<u>Without Transport</u>	<u>With Transport</u>
Switch upgrade costs	\$ <del>21,668</del> <del>22,000</del>	\$ <del>22,000</del> 21,668
Internal business procedure changes	11,067 <del>6,067</del>	<del>6,067</del> 11,067
Inter-carrier testing	6,000	6,000
Other internal costs	5,108	5,108
LNP query set up	368	368
Service order administration	1,000	1,000
Customer notification costs	<u>995</u>	<u>995</u>
Nonrecurring transport costs		<u>2,306</u>
	46,206	48,512
TOTAL NONRECURRING COSTS	\$ <u><del>41,538</del></u>	\$ <u><del>43,844</del></u>

<u>LNP Monthly Recurring Costs</u>		
LNP query costs per month	\$ 300	\$ 300
Service order administration	400 <del>800</del>	<del>800</del> 400
Switch maintenance costs per month	<u>185</u>	<u>185</u>
Recurring transport costs		<u>4,126</u>
	885	5,011
TOTAL RECURRING MONTHLY COSTS	\$ <u><del>1,285</del></u>	\$ <u><del>5,411</del></u>

Monthly Cost Calculations per Access Line

Access lines excluding lifeline	2,365	
Total nonrecurring costs per month amortized over a five year period	\$ <del>770</del> <del>692</del>	\$ <del>731</del> 809
Total monthly recurring costs	<u>885</u> <u>1,285</u>	<u>5,411</u> <u>5,011</u>
Total monthly costs	\$ <u><del>1,977</del></u>	\$ <u><del>6,142</del></u> 5,820
	.70	
LNP costs per access lines	\$ <u><del>0.84</del></u>	\$ <u><del>2.60</del></u> 2.46

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

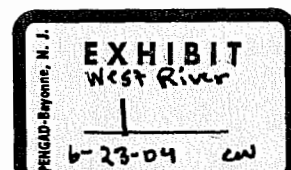
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IN THE MATTER OF THE PETITION  
OF WEST RIVER COOPERATIVE  
TELEPHONE COMPANY FOR SUS-  
PENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-061

**DIRECT PRE-FILED TESTIMONY OF**  
**JERRY REISENAUER**

May 14, 2004





**DIRECT PRE-FILED TESTIMONY OF  
JERRY REISENAUER**

**Q: What is your name and address?**

A: My name is Jerry Reisenauer. My business address is 801 Coleman Avenue, P.O. Box 39, Bison, SD, 57620-0039. My business telephone number is (605) 244-5216.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of West River Cooperative Telephone Company (WRCTC). WRCTC is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 3,763 access lines within its South Dakota service area, which includes the exchanges of Bison, Buffalo, Camp Crook, Lemmon, Meadow, Newell, Nisland, and Sorum.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: No.

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

A: We are a small company with only eight exchanges. Our service areas are defined by where we have physical cable plant. However, the wireless carriers serve by the reach of a radio frequency from a tower site. The wireless MTAs and BTAs are much larger than our exchange boundaries; however, the areas in which subscribers can receive wireless coverage are actually smaller. The boundaries of our wire/rate centers and the local calling areas of wireless carriers serving in our area vary greatly.

1 **Q: Does your company provide any Extended Area Service (EAS) plans to its sub-**  
2 **scribers or to a connecting carrier's subscribers?**

3 A: Bison subscribers (605-244) have EAS to Meadow, Sorum, and Lemmon (605-788,  
4 605-866, 605-374 and 701-376).

5 Buffalo subscribers (605-375) have EAS to Camp Crook (605-797 and 406-972).

6 Camp Crook subscribers (605-797 and 406-972) have EAS to Buffalo (605-375).

7 Lemmon subscribers (605-374 and 701-376) have EAS to Bison, Meadow, Sorum,  
8 McIntosh, and Morristown (605-244, 605-788, 605-866, 605-273 and 701-276,  
9 605-524 and 701-522).

10 **Q: What is the current method of routing calls from your subscriber's landline**  
11 **phones to wireless phone numbers?**

12 A: As an example, when a subscriber located in Bison uses his/her landline phone to  
13 call a wireless phone number, the call is routed from the subscriber's landline phone  
14 to the Bison central office switch, where it is determined to be a non-local call and  
15 is therefore switched to a toll trunk group. The toll trunk carries the call to SDN  
16 Communication's (SDN) Centralized Equal Access (CEA) tandem, which is located  
17 in Sioux Falls, to be routed to the appropriate Point of Interconnection (POI) of the  
18 wireless carrier.

19 **Q: What is the number of wireless carriers authorized to serve in your company's**  
20 **service area?**

21 A: To my knowledge, four (4) wireless carriers are authorized to serve in WRCTC's  
22 service area (Verizon Wireless, Western Wireless, Sprint PCS, and Nextel).

1 **Q: Have any subscribers requested local number portability (LNP) from your**  
2 **company?**

3 A: To my knowledge, not a single WRCTC subscriber has requested local number  
4 portability from WRCTC. Further, there was considerable press and TV coverage  
5 in our service area about this issue when the FCC first issued its November 10 Or-  
6 der.

7 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever re-**  
8 **quested LNP from your company?**

9 A: No.

10 **Q: Have any wireless carriers submitted bona fide requests for LNP and if so**  
11 **when?**

12 A: Yes. Western Wireless (November 18, 2003) and Verizon (October 23, 2003)

13 **Q: Are there any existing capital investments for broadband that will be diverted**  
14 **if your company must deploy LNP?**

15 A: Yes. DSL and broadband services are of utmost importance to our customers. Of  
16 all our new services, our customers are most interested in broadband. We are up-  
17 grading existing plant at an accelerated pace. This new plant will provide our  
18 members dependable service for many years. The most cost effective, long-term  
19 solution for replacement of plant that has outlived its useful life is fiber technology.  
20 This technology will also provide broadband services to our members. Any amount  
21 of capital investment that is diverted to the implementation of LNP will reduce  
22 needed capital from investments in new infrastructure and broadband capabilities.  
23 WRCTC is a small company and has limited resources to fund network invest-

1       ments. We would prefer to serve the real demands of our customers rather than  
2       provide a service that has been mandated by the FCC that our customers are not re-  
3       questing.

4   **Q: What will the impact be on WRCTC and its customers if it is required to pro-**  
5   **vide intermodal LNP?**

6   A: WRCTC is a small rural company with a small customer base. Therefore, if LNP is  
7       required, the cost of implementing intermodal LNP will hit WRCTC and its cus-  
8       tomers very hard. We have few economies of scale in implementing intermodal  
9       LNP. Exhibit 1 to our Petition shows a \$9 impact per access line. This is for a ser-  
10      vice that not a single customer has requested to date. There is little, if any, demand  
11      for intermodal LNP in our service area. With little or no demand, there would be a  
12      substantial burden to pay for the service. Further, the vast majority of our custom-  
13      ers will have to pay for those few, if any, who may decide to port their numbers.  
14      It's a very poor bargain for the majority of our customers.

15 **Q: In your experience as the general manager of WRCTC have you seen increases**  
16 **or additions to the itemized fees on your customer's telephone bills?**

17 A: Yes. Most of our members have told me there have been too many new fees or fee  
18      increases on their bills in recent years. We received a number of complaints from  
19      members when the subscriber line charge (SLC) went from \$3.50 to \$6.50 after the  
20      MAG Plan was approved by the FCC. Many elderly members tell me of their con-  
21      cerns of having to discontinue their service because of increased costs.

22 **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
23 **their bills?**

1 A. If it is anything close to \$9 per month, the reaction will be very hostile. The vast  
2 majority of our customers gain no benefit from this service, and I expect strong pro-  
3 tests. The protests will be far worse than those to the SLC increase. Many of our  
4 customers are elderly and will be especially hard hit, and some will simply discon-  
5 tinue service, which concerns me greatly when you review the geographic area we  
6 serve, with the nearest hospital 45 to 100 miles away and the nearest neighbor  
7 sometimes several miles away. There could be times when lack of local service  
8 could be a serious and possibly even a life or death issue. I feel strongly that it is  
9 not in the West River members' best interests when the large majority of our mem-  
10 bers will be required to pay for a mandated service that will benefit few if any of  
11 our members.

12 **Q: Do you expect that the costs of implementing Intermodal LNP could create the**  
13 **necessity of a rate increase for WRCTC?**

14 A. Depending on what costs are recoverable in any LNP end user fees, if the remainder  
15 is significant, WRCTC will not be able to absorb them and may have to implement  
16 a dial tone rate increase to recover any deployment costs.

17 **Q: Do you have any concluding comments?**

18 A There are so many unknowns regarding intermodal LNP implementation in rural  
19 exchanges. It makes much more sense to wait for the FCC or the Courts to clarify  
20 key issues, such as: 1) How are rural ILECS to interconnect with distant wireless  
21 POI? 2) What would the porting interval be? and 3) If a number is ported, how  
22 would ILECs maintain the original wireline rate center when the service areas of  
23 wireline and wireless companies vary so greatly? There are so many unanswered

1 questions it clearly makes sense to save our resources until these questions are an-  
2 swered. Doing so will save our customers significant dollars and help us provide  
3 services they actually want, such as broadband.

4 **Q: Does this conclude your direct testimony?**

5 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testi-  
6 mony at or before the hearing if I receive additional information pertaining to the  
7 issues I presented herein.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF WEST RIVER COOPERATIVE  
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Docket No. TC04-061  
REBUTTAL TESTIMONY OF  
JERRY REISENAUER

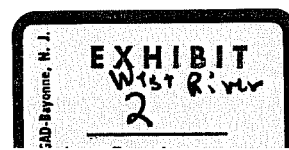
REBUTTAL TESTIMONY OF

JERRY REISENAUER

ON BEHALF OF

WEST RIVER COOPERATIVE TELEPHONE COMPANY

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Jerry Reisenauer. I am the General Manager of West River Coopera-  
3 tive Telephone Company ("West River"), whose address is 801 Coleman Avenue,  
4 Bison, South Dakota 57620.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, West  
15 River took immediate steps to investigate the cost and the processes involved with  
16 LNP and to explore its legal options. Because West River had no experience with  
17 LNP, it took time to gather the pertinent information and to make the decision to  
18 seek a suspension of the requirement from the Commission. Further, the suspension  
19 petition itself took time and effort to prepare because West River wanted to present  
20 as complete a petition as possible, accompanied by cost information as complete as  
21 possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
24 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
25 cal calls?"



1     **A. In its answer to Interrogatory 4., Western Wireless identifies the “serving tandem”**  
2     **as the Qwest LATA or local tandem, which is outside of West River’s service terri-**  
3     **tory. (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal**  
4     **Testimony of Steven E. Watkins). Mr. Williams’ statement is not consistent with the**  
5     **interconnection agreement signed by West River and Western Wireless. Pursuant**  
6     **to that agreement, West River did not agree to route traffic destined for Western**  
7     **Wireless to the serving tandem. Rather, traffic terminating to Western Wireless is**  
8     **routed to an interexchange carrier. Therefore, it appears that Western Wireless’**  
9     **argument really is a bad faith attempt to change the agreement between the parties.**

10    **Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that “the FCC views that it**  
11    **is the originating carrier’s responsibility to deliver local traffic for termination and that**  
12    **the costs associated with fulfilling that responsibility are not a number portability cost.”**  
13    **What is your response to this statement?**

14    **A. Mr. Williams’ statements are inconsistent and should be rejected. First he argues**  
15    **that West River should be required to install new facilities to deliver ported calls to**  
16    **Western Wireless and then he argues that the cost of those facilities are not number**  
17    **portability costs. Further, as discussed at lines 1-9 above, Mr. Williams’ suggestion**  
18    **that it is West River’s responsibility to deliver traffic destined to Western Wireless**  
19    **through a serving tandem is not consistent with the interconnection agreement be-**  
20    **tween West River and Western Wireless.**

21    **Q. At page 20, lines 13-16, Mr. Williams states that “[t]he routing methods proposed by the**  
22    **Petitioners are inefficient in that they make little or no utilization of existing equipment**  
23    **and shared facilities currently used to exchange calls with other carriers.” How do you**  
24    **respond?**

1 A. The routing methods reflected in the cost exhibit attached to West River's Petition  
2 are based on the current routing arrangements that West River has in place with  
3 other carriers, namely, calls that are dialed on a local 7-digit basis are routed via di-  
4 rect connections. Therefore, if calls to numbers ported to a carrier are to be dialed  
5 on a local 7-digit basis, a direct connection needs to be established between the car-  
6 riers.

7 Q. Would Western Wireless' routing proposal have impacts to West River beyond LNP?

8 A. Yes. It is my understanding that Western Wireless' proposal would increase West  
9 River's costs. First, Western Wireless' proposal would require West River to pay  
10 for new facilities to the tandem provider that it does not need for any purpose other  
11 than to route calls to ported numbers to wireless carriers. Second, West River  
12 would most likely have to pay transit traffic charges to the tandem provider for  
13 transporting the traffic to the wireless carriers. Third, in response to Interrogatory  
14 16.b., Western Wireless indicates that West River would be required to pay recipro-  
15 cal compensation on calls to ported numbers, even if West River does not pay com-  
16 pensation on such calls today. (See Western Wireless Response to Interrogatory  
17 16.b. attached to the Rebuttal Testimony of Steven E. Watkins.)

18 Q. Is there any other impact?

19 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
20 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
21 wireless carriers are routed to interexchange carriers. For example, if West River  
22 Customer A calls Western Wireless Customer B, West River Customer A incurs a  
23 toll charge. However, under Western Wireless' proposal, it is my understanding  
24 that if West River Customer A calls Western Wireless Customer B, who now has a  
25 number ported from West River, West River Customer A would be charged for a

1       local call. Customers may be encouraged to “give up” their existing wireless num-  
2       bers and obtain wireline numbers for the sole purpose of porting that number to  
3       avoid toll charges. This is not only a bad public policy result, but also simply a bad  
4       faith attempt to avoid an important contract provision upon which Western Wire-  
5       less has already agreed with our company.

6       Q.     Does this conclude your rebuttal testimony?

7       A.     Yes.

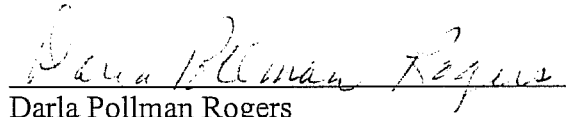
## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
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South Dakota Telecommunications Association  
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P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

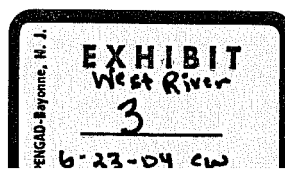
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IN THE MATTER OF THE PETITION  
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PENSION OR MODIFICATION OF  
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TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-061

**DIRECT PRE-FILED TESTIMONY OF**  
**JOHN DE WITTE**

**May 14, 2004**



**DIRECT PRE-FILED TESTIMONY OF  
JOHN DE WITTE**

**Q: What is your name and address?**

A: My name is John M. De Witte. My business address is 1801 N. Main Street, Mitchell, South Dakota 57301.

**Q: By whom are you employed and in what capacity?**

A: I am the Vice President of Engineering of Vantage Point Solutions, Inc. (VPS). VPS is a telecommunications engineering and consulting firm in Mitchell, South Dakota with a full-time staff of 52 employees. Our client base of VPS is made up of rural independent Local Exchange Carriers (LECs). I focus on assisting the small LECs with nearly all technical and financial aspects of their operations. My direct staff of 13 and I have provided engineering, financial, and regulatory services to many of the South Dakota LECs, as well as LECs in several other states.

**Q: What is your educational and business background?**

A: I received a Bachelors of Science in Computer Engineering (1982) from Iowa State University (Ames, IA) and a Masters of Business Administration (1992) from Kennesaw State College (Kennesaw, GA). I am a Registered Professional Engineer in South Dakota and 10 other states.

I have been active in the telecommunications industry since 1983. Previous to VPS, I worked for Martin Group, Inc., based in Mitchell, South Dakota. At Martin Group, I was Assistant Director of Engineering of the Telecom Consulting and Engineering Business Unit, providing engineering and consulting services to rural telecommunications providers throughout the nation. Prior to this, I worked in a variety of engineering, marketing, and management positions at Nortel Networks,

1 Inc., a telecommunications equipment manufacturer in Raleigh, NC and Atlanta,  
2 GA. I am a regular speaker at many state, regional, and national telephone com-  
3 pany organization events, including the National Telephone Cooperative Associa-  
4 tion (NTCA) and the Organization for the Promotion and Advancement of Small  
5 Telecommunications Companies (OPASTCO). In this capacity, I often advise tele-  
6 phone company managers and board members regarding a variety of technical and  
7 financial issues.

8 **Q: On whose behalf are you testifying in this proceeding?**

9 A: My direct pre-filed testimony is submitted on behalf of West River Cooperative  
10 Telephone Company (WRCTC).

11 **Q: What is the purpose of your testimony?**

12 A: I will provide testimony on technical and cost issues of implementing intermodal  
13 LNP that is pertinent to this hearing.

14 **Q: Are you familiar with current telephone network technologies, including**  
15 **switching equipment, transmission equipment, and outside plant architec-**  
16 **tures?**

17 A: I have provided engineering and consulting services to more than 100 rural LECs  
18 across the United States. I am familiar with nearly all of the technologies and archi-  
19 tectures of a rural LEC network, including transport equipment, switching equip-  
20 ment, digital loop carrier equipment, broadband networks, along with copper and  
21 fiber outside plant cable. I have engineered both landline networks and wireless  
22 networks for my clients.

1 **Q: Do you understand the various methods and requirements that are required to**  
2 **support Intramodal (wireline to wireline or wireless to wireless) and Inter-**  
3 **modal (wireline to wireless) Local Number Portability?**

4 A: Yes I do.

5 **Q: With the number of variants for LNP, which implementation of LNP is the fo-**  
6 **cus of your testimony?**

7 A: In general, the methodologies, rules, and implementation processes for wireline In-  
8 tramodal LNP are clearly defined, have been in place for several years, and are  
9 widely deployed. The methodologies, rules, and implementation processes for In-  
10 termodal (wireline to wireless) LNP and wireless Intramodal LNP have only been  
11 in place since November 2003. Intermodal LNP relating to wireline to wireless  
12 ports will be the focus of my direct testimony.

13 **Q: What unique challenges are presented to a rural Independent Local Exchange**  
14 **Carrier (ILEC) with the implementation requirements of Intermodal LNP?**

15 A: There are several technical and economic issues facing rural ILECs as they evaluate  
16 the implementation of Intermodal LNP. These challenges for small rural LECs  
17 concern the interconnection of wireless and wireline networks for the purposes of  
18 implementing Intermodal LNP. The Petitioner does not have existing direct points  
19 of connection to wireless carriers' networks in any of the rate centers it serves.  
20 Where there are no direct points of connection with the wireless carriers, only con-  
21 ventional, switched toll routes remain; but no translating, routing, rating or cost re-  
22 covery rules are in place. Some of the questions that need to be addressed include:  
23 (1) where and how should the Petitioner interconnect with the wireless carriers, (2)



1 is the point of interconnection within the LATA, and (3) how will the Petitioner be  
2 able to maintain the original rate center designation and rating when the number is  
3 ported to a point of interconnection that is located outside the original rate center,  
4 when the wireless service area and the Petitioner's service area vary greatly. These  
5 issues are unique in rural areas, such as the Petitioner's service area, where few, if  
6 any interconnection arrangements exist and there are fewer subscribers in compari-  
7 son to metropolitan areas over which to spread the costs of Intermodal LNP. The  
8 uncertainty surrounding these and other questions are likely to cause significant  
9 customer confusion, complaints to the Petitioner and the SDPUC, and the resulting  
10 perception of degraded customer service on the part of the Petitioner's members.  
11 WRCTC has not received a LNP request from a wireline competitive local ex-  
12 change carrier (CLEC); therefore WRCTC has not previously implemented LNP.  
13 As a result, numerous upgrades in software and operational procedures will be re-  
14 quired in order to meet the Intermodal LNP requirements, which will benefit only  
15 those few subscribers that choose to leave WRCTC, while encumbering the entire  
16 remaining subscribers with the burden of funding the porting benefit. In addition,  
17 current implementation rules do not provide the necessary competitive playing field  
18 to allow wireless subscribers to port to WRCTC's wireline services.

19 **Q: What are the anticipated costs of implementing Intermodal LNP?**

20 A: The anticipated costs of implementing Intermodal LNP can be categorized into four  
21 (4) basic areas: 1) Switching related costs, 2) Number Portability Administration  
22 Center (NPAC) related costs, 3) Administrative/Technical costs and 4) Transport  
23 Costs. The LNP Petition filed on behalf of WRCTC included an Exhibit detailing

1 the estimated implementation costs for intermodal LNP. This Exhibit is attached as  
2 Exhibit [1]. Each of the cost elements in these categories will be identified in the  
3 following paragraphs.

#### 4 Switching Related Costs

5 The cost elements in this category include switching generic software upgrades,  
6 LNP software features, prerequisite software features to support the LNP features,  
7 any requisite switch hardware to support the operation of the LNP software, switch  
8 vendor installation costs, vendor software activation fees, and maintenance ex-  
9 penses attributable to LNP. As part of the cost estimates provided with the  
10 WRCTC Waiver Petition, the cost estimates for this category are detailed as fol-  
11 lows:

#### 12 LNP Hardware Requirements

13 WRCTC utilizes a Nortel Networks (Nortel) DMS-10 as its wireline switching plat-  
14 form. WRCTC has verified with Nortel that the existing DMS-10 configuration  
15 does not require any hardware additions to support the activation of LNP software.  
16 Therefore, WRCTC did not claim any non-recurring or recurring cost estimates for  
17 LNP hardware as part of its estimated costs.

#### 18 LNP Software Features

19 According to oral conversations with Nortel, the WRCTC DMS-10 network cur-  
20 rently has the generic software load that will support LNP. The LNP software fea-  
21 tures have not been activated in WRCTC's DMS-10s. Based on LNP program pric-  
22 ing estimates from Nortel Networks, the non-recurring cost estimate for the LNP  
23 Basic software feature for DMS-10 switches is \$4 per equipped line, which amounts

1 to \$18,800 for WRCTC. Nortel does not charge a recurring Right-To-Use (RTU)  
2 fee for these features. Based on the program pricing information provided by  
3 Nortel, WRCTC claimed \$18,800 for LNP software features and did not claim any  
4 recurring cost estimates for LNP software as part of its estimated costs.

#### 5 Additional Software Features

6 WRCTC has verified with Nortel that the existing DMS-10 configuration does not  
7 require any pre-requisite software additions to support the activation of LNP soft-  
8 ware. Therefore, WRCTC did not claim any non-recurring or recurring cost esti-  
9 mates for additional LNP software as part of its estimated costs.

#### 10 Additional Vendor Fees

11 WRCTC has not participated in Nortel's annual software upgrade program  
12 (Nortel's SR-10 program). As a result, Nortel will likely assess a fee for the activa-  
13 tion of LNP features if they are ultimately required as a result of this hearing.  
14 Based on oral LNP pricing estimates from Nortel Networks, WRCTC claimed  
15 \$5,000 as a non-recurring cost estimate required for feature activation.

#### 16 Initial LNP Translations

17 There are several activities that are required to initially set up and test the basic  
18 translations for LNP. The non-recurring initial translations cost estimates were  
19 based on the anticipated fees to data-fill and test basic LNP functionality in the Peti-  
20 tioner's switching system. This testing includes coordination of testing with the  
21 SOA provider, coordination of testing with any transiting carriers, verification of  
22 proper LNP dip activities, verification of billing system interaction, and other trans-  
23 lations activities. This cost estimate is approximately \$10,000. In order to allow

1 time for coordination of testing with other entities, it is assumed that the initial  
2 translations testing will require approximately two (2) man-weeks of translations  
3 activities by a 3<sup>rd</sup> party technical consultant for its host switch, at a loaded hourly  
4 rate of \$100 per hour. The remaining portion of this cost estimate includes travel,  
5 living and other miscellaneous expenses.

#### 6 Technical Implementation and Testing

7 There are several activities that are required to initially set up and test the basic  
8 translations for each CMRS carrier requesting Intermodal LNP. The non-recurring  
9 technical implementation and testing cost estimates were based on the anticipated  
10 fees to data-fill and test specific Intermodal LNP functionality in the Petitioner's  
11 switching system. The non-recurring technical implementation and testing cost es-  
12 timates were based on performing number porting tests individually associated with  
13 each CMRS to ensure that the ported number route correctly flows through the Peti-  
14 tioner's network. As the FCC has not required a formal Interconnection Agree-  
15 ment, it is assumed that the Petitioner will be responsible for performing these tests  
16 in order to ensure proper call routing. The cost estimate is based on 24 hours of  
17 testing at \$100 per hour for each appropriate exchange by a 3rd party resource and  
18 includes travel and living expenses.

#### 19 NPAC Related Costs

20 The cost elements in this category include Service Order Administration (SOA)  
21 costs, LNP Query costs, and connection costs with the LNP database. As part of  
22 the cost estimates provided with the WRCTC Waiver Petition, the cost estimates for  
23 this category are detailed as follows:

1       Service Order Administration

2       As part of the LNP implementation process, the Petitioner must select a provider to  
3       administer updates to the Number Portability Administration Center (NPAC) LNP  
4       database. In anticipation of reduced porting intervals in the future, the Petitioner  
5       has elected to include the costs for an automated SOA system. The SOA cost esti-  
6       mates were based a compilation of SOA services price lists from several firms pro-  
7       viding automated SOA services. These cost estimates represent the anticipated  
8       start-up costs and recurring costs levied by the SOA provider to utilize its auto-  
9       mated services to update the LNP databases. The sample pricing scenarios were  
10      obtained under Non Disclosure Agreement (NDA) from several SOA services pro-  
11      viders. As the Petitioner has not entered into any contracts with these or any SOA  
12      entities, firm pricing cannot be provided. As an estimate, the non-recurring SOA  
13      costs were assumed to be \$2,000 with the recurring SOA costs assumed to be \$500.  
14      Should the Petitioner enter into a contract with an automated SOA provider, these  
15      cost estimates can be revised.

16      LNP Query Charges

17      With the implementation of LNP, the Petitioner will incur charges for each LNP  
18      query launched for its subscribers. The LNP query cost estimates were based on a  
19      compilation of SOA services price lists from several firms providing automated  
20      SOA services. The sample pricing scenarios were obtained under NDA from sev-  
21      eral SOA Services providers. As the Petitioner has not entered into any contracts  
22      with these or any SOA entities, firm pricing cannot be provided. The non-recurring  
23      LNP Query cost estimate represents the anticipated start-up costs levied by the SOA

1 provider to utilize its services to dip its database. This initial set-up charge is as-  
2 sumed to be \$500. The recurring LNP Query cost estimates were based on the as-  
3 sumption that each of the Petitioner's access lines would generate five (5) to six (6)  
4 call attempts per day; each of the call attempts would generate an LNP query. The  
5 query charge is assumed to range between \$0.001 and \$0.0005 per query. Based on  
6 these assumptions, the recurring LNP Query charge was assumed to be \$500.  
7 Should the Petitioner enter into a contract with an automated SOA provider, these  
8 cost estimates can be revised.

#### 9 Connection Costs w/LNP Database

10 With the implementation of LNP, the Petitioner will incur set-up charges levied by  
11 the SOA provider to enter its NECA Operating Company Number (OCN) and Point  
12 codes for each switch launching LNP queries to the SOA's LNP database. The  
13 non-recurring connection costs with LNP database estimate was based on a compi-  
14 lation of SOA services price lists from several firms providing automated SOA ser-  
15 vices. The sample pricing scenarios were obtained under NDA from several SOA  
16 Services providers. As the Petitioner has not entered into any contracts with these  
17 or any SOA entities, firm pricing cannot be provided. The cost estimate for this  
18 element was estimated at \$150, assuming \$150 per point code. Should the Peti-  
19 tioner enter into a contract with an automated SOA provider, this cost estimate can  
20 be revised.

#### 21 Technical and Administrative Costs

22 The cost elements in this category include testing and verification of each ported  
23 DN, translations for each ported DN, administrative cost estimates, regulatory cost

1 estimates, customer care cost estimates, and marketing cost estimates. As part of  
2 the cost estimates provided with the WRCTC Waiver Petition, the cost estimates for  
3 this category are detailed as follows:

4 Testing and Verification of Each Ported Dial Number

5 This cost estimate addresses the anticipated activities to test each “ported out” di-  
6 rectory number (DN) to verify the proper routing of the DN. The recurring Test-  
7 ing/Verification cost estimates were based on \$35 per port at the Petitioner’s loaded  
8 technical labor costs of \$50 per hour.

9 Per Port Translations

10 This cost estimate addresses the anticipated translations activities to “port out” each  
11 DN. The recurring translations cost estimate was based on one (1) hour per port at  
12 the Petitioner’s loaded technical labor costs of \$50 per hour.

13 Administrative Costs

14 The implementation of LNP will require WRCTC to implement new administrative  
15 policies and procedures. The non-recurring administrative cost estimates were  
16 based on providing LNP process training for the Petitioner’s administrative person-  
17 nel. The training is assumed to be provided by the entity providing automated SOA  
18 services. The Petitioner has not selected a SOA provider at this time. The non-  
19 recurring costs estimates are based on a one-week onsite customer service represen-  
20 tative training class, including the instructor’s travel and living expenses. This cost  
21 is assumed to be \$10,000. The recurring administrative cost estimate addresses the  
22 anticipated administrative activities required with entry of the ported number into  
23 the SOA system. The recurring administrative cost estimates were based on one

1 half (1/2) hour per port at the Petitioner's loaded administrative labor costs of \$46  
2 per hour.

### 3 Regulatory Costs

4 This cost element is associated with the Petitioner's Legal Fees and Regulatory  
5 Consulting fees. The legal fees are associated with the Petitioner's attorneys. The  
6 anticipated fees are associated with reviewing the legal aspects of LNP filings and  
7 LNP implementation. The regulatory consulting fees are typically associated with  
8 the updates required to various National databases (NECA Tariff 4, Telcordia  
9 LERG, etc.) and the possible assistance with the completion of the NECA End User  
10 Charge worksheets. This cost is estimated at 100 hours at an average rate of \$150  
11 per hour and includes travel, living, and miscellaneous expenses. Based on the le-  
12 gal activities required to implement LNP, the Petitioner may revise this figure at a  
13 later date.

### 14 Customer Care Costs

15 The implementation of LNP will require WRCTC to implement new customer care  
16 policies and procedures. The non-recurring customer care cost estimates were  
17 based on providing LNP customer care training for the Petitioner's administrative  
18 personnel. The training is assumed to be provided by the entity providing the Peti-  
19 tioner's billing platform services. The Petitioner has not developed the Customer  
20 Care and Billing processes for LNP at this time. The costs estimates are based on a  
21 one-week onsite Operational Support Services (OSS) training class. The recurring  
22 customer care cost estimates were based on one-half (1/2) hour per port at the Peti-  
23 tioner's loaded customer care labor costs of \$46 per hour. This cost estimate ad-



1 dresses the anticipated administrative activities required with updating the Peti-  
2 tioner's customer care and billing system and to track the "ported out" DNs.

### 3 Marketing and Informational Flyer Cost Estimates

4 The implementation of LNP will likely generate subscriber confusion from the ad-  
5 dition of an End User Charge for the implementation of LNP. The Petitioner plans  
6 to develop an informational flyer to help educate the subscriber base by explaining  
7 LNP and the reasons for the proposed LNP End User Charge appearing on the sub-  
8 scribers' monthly local service bill. The non-recurring marketing and informational  
9 flyer cost estimates were based on the costs required to develop an informational  
10 flyer and billing insert explaining LNP and any end-user fees that may apply. The  
11 total non-recurring estimated costs in this category were expressed as a "per access  
12 line" cost and were estimated at approximately \$4.00 per subscriber. This cost es-  
13 timate includes the development of the explanatory LNP text, the graphic design  
14 artwork, and first run printing costs. The recurring marketing and informational  
15 flyer cost estimates were based on \$3.75 per subscriber per year for volume print  
16 costs, handling, and mailing the periodic flyer/bill insert. This recurring market-  
17 ing/informational flyer cost estimate was amortized over 12 months to arrive at an  
18 estimated monthly fee for the Cost Exhibit.

### 19 Billing/Customer Care Software Updates

20 The Petitioner's billing and customer care system will require software upgrades to  
21 support LNP. The non-recurring billing and customer care software upgrade cost  
22 estimates represents the anticipated costs to upgrade the Petitioner's billing system

1 to accommodate LNP functionality. This upgrade was estimated as an allocated  
2 cost of the Petitioner's annual billing system upgrade.

### 3 Transport-Related Cost Estimates

4 The cost elements in this category include the estimated costs of transport to con-  
5 nect the Petitioner's exchange with the CMRS carriers, anticipated cost estimates  
6 for transiting CMRS connections, and anticipated cost estimates for pass-through  
7 N-1 Tandem LNP queries. As part of the cost estimates provided with the WRCTC  
8 Waiver Petition, the cost estimates for this category are detailed as follows:

### 9 Transport Cost Estimates

10 The Petitioner will require direct Type 2B DS1 transport facilities from the Peti-  
11 tioner's exchange to each CMRS provider's Point of Interconnection (POI) for  
12 those CMRS carriers requesting intermodal LNP. The Petitioner does not possess  
13 POI information for each CMRS carrier. The non-recurring wireless carriers POI  
14 cost estimates represent the costs associated with providing a Type 2B DS1 span to  
15 each CMRS provider. As stated in the Petition, the Petitioner assumes interconnec-  
16 tion will be required with four (4) CMRS carriers. The Petitioner estimates that the  
17 non-recurring transport costs for each CMRS will be approximately \$5,000 per ex-  
18 change. This cost estimate includes the switch DS1 interface hardware and support-  
19 ing equipment required to place a Type 2B DS1 span into service. The recurring  
20 wireless carriers POI cost estimates were based on monthly transport lease cost es-  
21 timates. As stated in the Petition, the Petitioner assumes interconnection will be re-  
22 quired with four (4) CMRS carriers. The estimates for the recurring transport costs  
23 for each Type 2B DS1 were estimated be \$800 per month (to a POI in Rapid City,

SD). WRCTC plans to revise this recurring transport cost estimate once POI information is provided by the CMRS carriers and firm pricing can be provided by a transport provider (such as SDN Communications or Qwest).

#### Mobile Telephone Switching Office (MTSO) POI Connection Cost Estimates

The Petitioner does not possess POI information for the CMRS carriers that have or will likely to provide a Bona Fide Request (BFR) to the Petitioner for intermodal LNP. The possibility exists that a transiting carrier (such as Qwest or SDN Communications) may establish Type 2B DS1 connections with one or more of the CMRS carriers. The MTSO POI connection cost estimates represent the anticipated costs for the Petitioner's share of this connection, if required. The non-recurring MTSO POI connection cost estimates were based on an estimate of the start-up costs to utilize a transiting carrier for CMRS MTSO connections, if required. The recurring MTSO POI connection cost estimates were based on the Petitioner's anticipated share of monthly lease for the transiting carrier MTSO POI connection cost estimates, if required. If the CMRS carriers elect to directly connect with the Petitioner (without a transiting carrier) on a direct Type 2B DS1 connection to the CMRS' Mobile Telephone Switching Office (MTSO), these cost estimates will likely be not applicable.

#### Transiting Dip (Minimum) Cost Estimates

This cost estimate was based on the assumption that the transiting carrier may need to perform some LNP queries when the Petitioner's N-1 carrier fails to do so. The transiting non-recurring dip cost estimate describes the anticipated costs of the non-recurring set-up charges to enable the Petitioner to receive dip charges from a tran-

1 siting carrier, such as SDN Communications. The initial setup charges are likely to  
2 be passed on to Petitioner. WRCTC has estimated this cost to be \$500. The transit-  
3 ing carrier recurring dip cost estimates describe the anticipated costs of the mini-  
4 mum dip charges from a transiting carrier. These charges are likely to be passed on  
5 to Petitioner. WRCTC has estimated this cost estimate to be \$100 per month. If the  
6 CMRS carriers elect to directly connect with the Petitioner (without a transiting car-  
7 rier) on a direct Type 2B connection to the CMRS' Mobile Telephone Switching  
8 Office (MTSO), these cost estimates will likely be not applicable.

9 **Q: It appears that one of the larger estimated costs projected for the implementa-**  
10 **tion of Intermodal LNP relates to transport costs. What considerations con-**  
11 **cerning compensation for transport costs are applicable to the implementation**  
12 **of Intermodal LNP?**

13 A: With regard to the direct Type 2B connections to the wireless carriers described in  
14 the preceding cost estimates, these cost estimates are identified as required connec-  
15 tions to allow Intermodal LNP to function correctly within the Petitioner's existing  
16 billing and customer care systems.

17 **Q: If no direct Type 2B DS1 facilities are available for interconnection with the**  
18 **CMRS carriers, what happens for WRCTC?**

19 A: Without direct Type 2B facilities, the ported calls will be routed based on the Local  
20 Routing Number (LRN) delivered with the LNP query. The LRN will contain the  
21 NPA-NXX of the wireless carrier. Based on this NPA-NXX, these calls will be  
22 routed as toll calls over WRCTC's existing toll routes to WRCTC's Access Tandem  
23 (SDN Communications).

1 **Q: In your opinion, are the proposed Type 2B DS1 facilities to each CMRS carrier**  
2 **cost justified?**

3 A: Without actual traffic data, it is impossible to determine the feasibility of a particu-  
4 lar facility. However, based on the anticipated traffic levels generated by the pro-  
5 jected intermodal LNP ports, it appears that the construction of these facilities is not  
6 cost-justified. If the facilities were feasible, it is likely that the wireless carriers  
7 would have implemented them already as they have in other areas. Based on the  
8 projected traffic levels, it appears that the direct facilities between Petitioner and the  
9 wireless carriers required for LNP would be highly under-utilized and very ineffi-  
10 cient.

11 **Q: It appears that some of the anticipated cost estimates are based on the quantity**  
12 **of anticipated numbers that would be ported to a CMRS carrier. How was the**  
13 **number of ports determined?**

14 A: The quantity of projected ports is a function of the competitive environment in the  
15 proposed service area, the number of CMRS carriers, and other statistical data. The  
16 data that is currently available concerning porting activity for CMRS carriers on a  
17 wide-scale basis is limited. It is my understanding that no Petitioner customer has  
18 ever made an inquiry to Petitioner regarding LNP or a request for LNP. With re-  
19 spect to wireless LNP nationwide, to date, the demand for wireless porting has been  
20 far less than expected and most ports have been from one wireless carrier to an-  
21 other. Wireline to wireless porting appears to be a small fraction of wireless porting

1 in general.<sup>1</sup> According to NeuStar, 95% of wireless ports have been from one wire-  
2 less carrier to another and only 5% of wireless ports were between wireline and  
3 wireless carriers.<sup>2</sup> With lack of ubiquitous quality and incomplete coverage of the  
4 Petitioner's existing service area by the existing wireless carriers, I believe that the  
5 percentage would be even smaller than in other more urban parts of the nation. For  
6 purposes of the cost exhibit, approximately one (1) intermodal ports per year were  
7 estimated,<sup>3</sup> which is well under the five (5) percent of the Petitioner's access lines.  
8 Accordingly, there appears to be little, if any, demand for LNP and, absent such  
9 demand, no public benefit will be derived from LNP. Even if some level of LNP  
10 demand develops in the future, the total implementation costs that would be in-  
11 curred by Petitioner to implement and maintain LNP would require re-evaluation  
12 based on the customer demand, quantity of ports, and the revised estimated costs for  
13 the required LNP infrastructure elements.

14 **Q: Will any of the Petitioner's estimated costs change if the number of estimated**  
15 **ports is changed?**

16 **A:** Yes. There are several of the estimated recurring costs that are driven by the num-  
17 ber of ports. These cost elements include the recurring translations costs, the recur-  
18 ring testing and verification of each ported number, the recurring administrative  
19 cost estimates, and the recurring customer care costs. If the projected number of

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<sup>1</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.

<sup>2</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p. 4 (March 9, 2004)

<sup>3</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that between one percent (1%) and three percent (3%) are intermodal.

1 ports increases, these costs will increase. If the number of projected ports de-  
2 creases, these costs will decrease.

3 **Q: The current porting interval is currently four (4) days. If the porting interval**  
4 **were shortened to two (2) days or less, what effect, if any, would this shortened**  
5 **interval have on the estimated costs?**

6 A: The current industry experience with Intermodal porting is has not been without  
7 implementation issues. Significant problems meeting the current four (4) day port-  
8 ing interval have been reported. Assuming that the implementation issues are re-  
9 fined to the point where a shorter porting interval can be supported, the Petitioner  
10 has included the known cost elements to support a shorter porting interval. The Pe-  
11 titioner has assumed the use of an automated SOA system as part of their antici-  
12 pated LNP implementation costs. An automated SOA system will allow the Peti-  
13 tioner to accommodate an electronic request and acknowledgement for the ported  
14 numbers. Therefore, the Petitioner does not anticipate any increases in its SOA re-  
15 lated non-recurring or recurring cost estimates. It is possible that additional recur-  
16 ring costs in the areas of translations, technical implementation, testing, verifica-  
17 tion, customer care, and administrative would occur if the porting interval were to  
18 be reduced to require that porting activities occur outside of the standard business  
19 day (expedited requests, nights, weekends, and holidays). If porting is required dur-  
20 ing these times, additional loaded labor rates will be incurred. If the porting re-  
21 quirements are confined to the standard business day, the Petitioner does not antici-  
22 pate any additional recurring LNP costs. However, it is possible that unforeseen re-  
23 quirements could require additional charges.

1 **Q: Are there any other potential costs that could impact WRCTC with the im-**  
2 **plementation of Intermodal LNP?**

3 A: If WRCTC must implement intermodal LNP, all carriers with EAS arrangements  
4 with WRCTC and their customers will be impacted because the other carrier will  
5 have to LNP dip all EAS calls. This would increase the cost of EAS between  
6 WRCTC and the other carrier and could result in a loss of EAS options to the cus-  
7 tomer or an increase in the cost of optional EAS service.

8 **Q: Some telecommunications industry analysts have suggested that Foreign Ex-**  
9 **change Service (FX) could be used to provide connections to accommodate in-**  
10 **termodal LNP. Is this a reasonable alternative?**

11 A: There have been industry discussions of using an FX service for Intermodal LNP  
12 interconnection. An FX service is a line appearance that is extended from the  
13 "home" exchange to a "foreign" exchange using dedicated point-to-point facilities.  
14 The FX service is engineered on a per line basis. It is not a common trunk that can  
15 be used by a carrier for routing purposes. With an FX service, the LEC has cus-  
16 tomers and facilities in one rate center and provides service to customers in another  
17 rate center using the same "home" number block. To do this, facilities are extended  
18 from the LEC rate center to the foreign rate center where the customer resides. It is  
19 important to note that the customer pays for the use of these facilities. The LEC is  
20 compensated for their facilities and lost toll revenue through these customer  
21 charges. It is unknown exactly how an ILEC would implement an FX service to  
22 accommodate Intermodal LNP. The exact connectivity, rate elements, and network  
23 configuration for the proposed Intermodal LNP FX service appear to be undefined.



1 As such, any discussion of using FX as a viable transport alternative for Intermodal  
2 LNP transport is purely speculation.

3 **Q: You have addressed several estimated costs for Intermodal LNP. How would**  
4 **these cost estimates change if the Petitioner must implement only Intramodal**  
5 **(wireline to wireline) LNP?**

6 A: All cost elements would stay the same, but the amount of the cost estimates could  
7 change. It is my understanding that both wireline providers would be in the same  
8 rate center. Accordingly, the primary change in the estimated costs would be in the  
9 area of transport costs. The petitioner estimates that these costs would likely be  
10 significantly reduced. Intramodal LNP has clearly defined processes for the ex-  
11 change of traffic between the respective wireline carriers competing in a clearly de-  
12 fined rate center. In the intramodal LNP cases with which I am familiar, the carri-  
13 ers have entered into an Interconnection Agreement. The Intramodal Interconnec-  
14 tion Agreement addresses the methods and compensation that will be used to estab-  
15 lish interconnection and exchange traffic between the wireline carriers. The com-  
16 pensation for the traffic volumes is typically in the form of reciprocal compensa-  
17 tion. In addition, the recurring costs for testing of each ported number would likely  
18 be reduced since the dialing plans and routing between the carriers will likely not  
19 change on a regular basis. The reduction of these costs is dependent upon the vol-  
20 ume of ports. The remaining costs will likely be unchanged.

21 **Q: What would be the timeframe required for the Petitioner to fully implement,**  
22 **test and place Intermodal LNP into commercial service, if required to do so?**

1 A: Please refer to the LNP Implementation Timeline, attached hereto as Exhibit [2].  
2 The Timeline details the individual, inter-dependent tasks necessary to fully imple-  
3 ment Intermodal LNP. They are arrayed in a self-explanatory fashion, showing the  
4 anticipated duration of each task and its relationship to other tasks. The overall du-  
5 ration that results for the Timeline supports that approximately six (6) months  
6 would be required to fully prepare for, implement, test and place Intermodal LNP  
7 into commercial service, as stated in the WRCTC Waiver Petition. As with any  
8 planning horizon, this timeline does not take into account holidays or other unfore-  
9 seen delays due to Force Majure.

10 **Q: Does this conclude your direct testimony?**

11 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testi-  
12 mony at or before the hearing if I receive additional information pertaining to the  
13 issues I presented herein.

## Exhibit 1

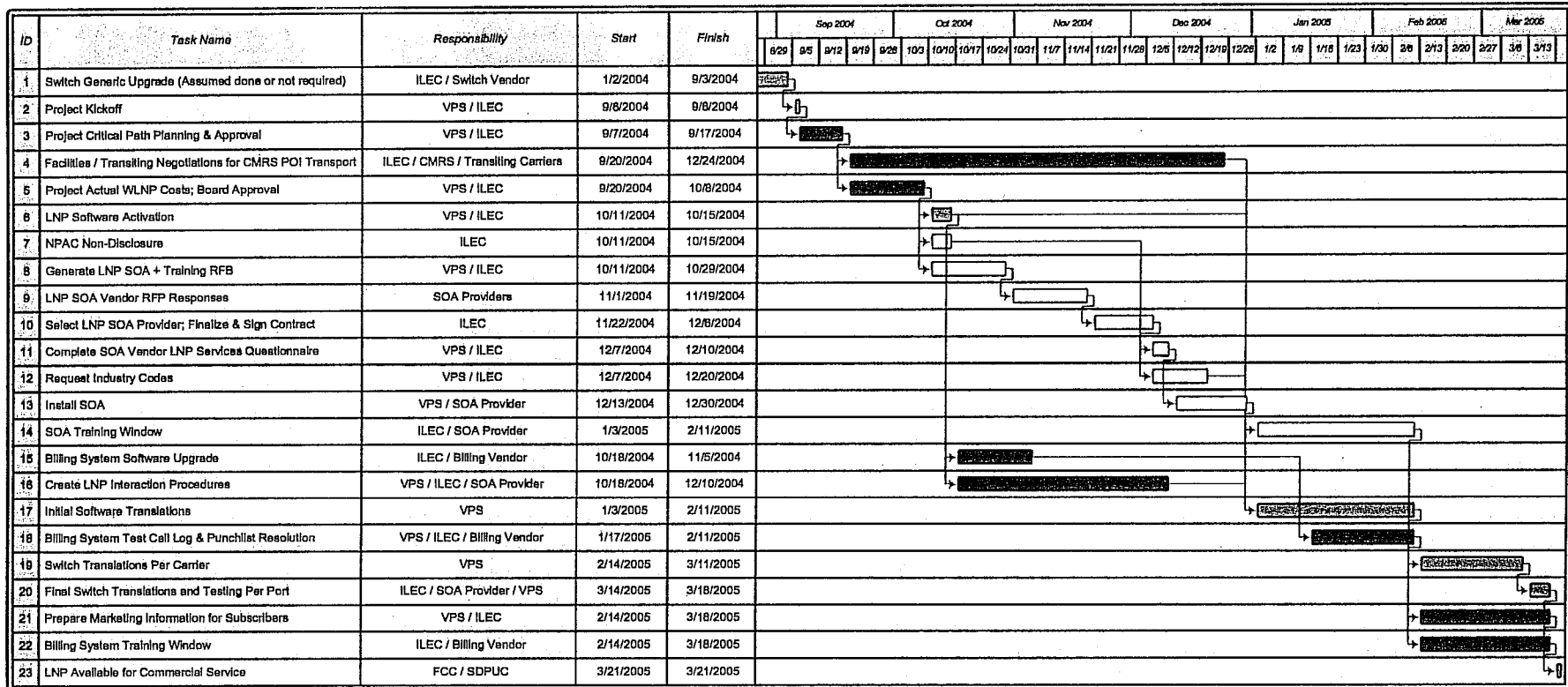
**WEST RIVER COOPERATIVE TELEPHONE COMPANY**  
**ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY**

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 18,800		
Additional Software Features	\$ -		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 10,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 23,200		
<b>Subtotal</b>	<b>\$ 57,000</b>		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 2,000	\$ 500	
LNP Queries	\$ 500	\$ 500	
Connection Costs w/LNP Database	\$ 150	\$ -	
<b>Subtotals</b>	<b>\$ 2,650</b>	<b>\$ 1,000</b>	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 3	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 4	Translations Costs - Ported Numbers
Administrative	\$ 10,000	\$ 2	
Regulatory	\$ 15,000	\$ -	
Customer Care	\$ 10,000	\$ 2	
Marketing/Informational Flyer	\$ 15,000	\$ 1,175	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
<b>Subtotals</b>	<b>\$ 55,000</b>	<b>\$ 1,186</b>	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carriers Points of Interconnection (POI)	\$ 160,000	\$ 25,600	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 161,000</b>	<b>\$ 25,900</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>	<b>\$ 275,650</b>	<b>\$ 28,086</b>	
<b>Current Access Lines</b>	<b>3,763</b>	<b>3,763</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>	<b>\$ 74</b>	<b>\$ 8</b>	
<b>Access Line Impact - First 60-Month Period</b>		<b>\$ 9</b>	

## Exhibit 2

## Exhibit 2

### LNP Implementation Timeline



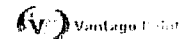
Switching-Related

NPAC-Related

Administrative/Technical

Transport-Related

Revised May 13, 2004



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION FOR LOCAL NUMBER)  
PORTABILITY SUSPENSION OR MODIFICATION )  
ON BEHALF OF SANTEL COMMUNICATIONS COOPERATIVE, )  
INC. ) Docket No. TC04-038  
)

**DIRECT PRE-FILED TESTIMONY OF  
GENE KROELL**

**Q: What is your name and address?**

A: My name is Gene Kroell. My business address is 308 South Dumont Avenue, PO Box 67,  
Woonsocket, SD, 57385-0067. My business telephone number is (605) 796-4411.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Santel Communications Cooperative, Inc. (Santel). Santel is a  
rural independent local exchange carrier that provides local exchange, exchange access and  
other telecommunications services to 4,827 access lines within its South Dakota service area,  
which includes the exchanges of Woonsocket, Alpena, Artesian, Ethan, Forestburg, Letcher,  
Mount Vernon, Parkston, Tripp, and Wolsey.

**Q: Does your company have any direct points of interconnection with any wireless carrier  
and/or does your company provide any blocks of numbers for your company's rate  
centers to any wireless carrier?**

A: No.

**Q: How do the local calling areas of your exchanges compare with those of the wireless  
carriers operating in your area?**



A: We are a small company with only ten exchanges. Our service areas are defined by where we have physical cable plant. However, the wireless carriers serve by the reach of a radio frequency from a tower site. Their wireless local calling area is often much larger than our exchange boundaries. The boundaries of our wire/rate centers and the local calling areas of wireless carriers serving in our area vary greatly.

**Q: Does your company provide any Extended Area Service (EAS) plans to its subscribers or to a connecting carrier's subscribers?**

A: Santel provides the following EAS:

Artesian subscribers (605-527) have EAS to Howard (605-772).

Wolsey subscribers (605-883) have EAS to Huron (605-352, 605-353, 605-350 & 605-354).

**Q: What is the current method of routing calls from your subscriber's landline phones to wireless phone numbers?**

A: As an example, when a subscriber located in Woonsocket uses his/her landline phone to call a wireless phone number, the call is routed from the subscriber's landline phone to the Woonsocket central office switch, where it is determined to be a non-local call and is therefore switched to a toll trunk group. The toll trunk carries the call to SDN Communication's (SDN) Centralized Equal Access (CEA) tandem, which is located in Sioux Falls, to be routed to the appropriate Point of Interconnection (POI) of the wireless carrier.

**Q: What is the number of wireless carriers authorized to serve in your company's service area?**

A: To my knowledge, four (4) wireless carriers are authorized to serve in Santel's service area (Verizon Wireless, Western Wireless, Sprint PCS, and Nextel).

**Q: Have any subscribers requested local number portability (LNP) from your company?**



A: To my knowledge, not a single Santel subscriber has requested local number portability from Santel. Further, there was considerable press and TV coverage in our service area about this issue when the FCC first issued its November 10, 2003 Order.

**Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever requested LNP from your company?**

A: No.

**Q: Have any wireless carriers submitted bona fide requests for LNP and if so when?**

A: Yes. Western Wireless, November 2003

**Q: Are there any existing capital investments for broadband that will be diverted if your company must deploy LNP?**

A: Yes. DSL and broadband services are of utmost importance to our customers. Of all our new services, our customers are most interested in broadband. We are upgrading our networks to provide broadband services. Any amount of capital investment that is diverted to the implementation of LNP will reduce needed capital from broadband investments. Santel is a small company and has limited resources to fund network investments. We would like to serve the real demands of our customers rather than provide a service that has been mandated by the FCC that our customers are not requesting.

**Q: What will the impact be on SANTEL and its customers if it is required to provide intermodal LNP?**

A: Santel is a small rural company with a small customer base. Therefore, if required the cost of implementing intermodal LNP will hit Santel and its customers very hard. We have few economies of scale in implementing intermodal LNP. Exhibit 1 to our Petition shows a \$9 impact per access line. This is for a service that not a single customer has requested to date.

There is little, if any, demand for intermodal LNP in our service area. With little demand there is a substantial burden to pay for the service. Further, the vast majority of our customers will have to pay for those few, if any, that may decide to port their numbers. It's a very poor bargain for the majority of our customers.

**Q: In your experience as the general manager of Santel have you seen increases or additions to the itemized fees on your customer's telephone bills?**

A. Yes. Most customers tell me there have been too many new fees or fee increases on their bills in recent years. We received considerable protests from customers when the subscriber line charge (SLC) went from \$3.50 to \$6.50 after the MAG Plan was approved by the FCC.

**Q: What do you expect your customer's reaction to be to any new LNP fees on their bills?**

A. If it is anything close to \$9 per month the reaction will be very hostile. The vast majority of our customers gain no benefit from this service and I expect strong protests. The protests will be far worse than those to the SLC increase. Many of our customers are elderly. They will be especially hard hit.

**Q: Do you expect that the costs of implementing Intermodal LNP could create the necessity of a rate increase for Santel?**

A. Depending on what costs are recoverable in any LNP end user fees, if the remainder is significant, Santel will not be able to absorb them and may have to implement a dial tone rate increase to recover any deployment costs.

**Q: Do you have any concluding comments?**

A. There are so many unknowns yet regarding intermodal LNP implementation in rural exchanges. It makes so much sense to wait for the FCC or Courts to clarify key issues, such as: 1) How are rural ILECS to interconnect with distant wireless POI? 2) What will the

porting interval be? and 3) If a number is ported how do ILECs maintain the original wireline rate center when the service areas of wireline and wireless companies vary so greatly? There are so many unanswered questions it only makes sense to save our resources until these questions are answered. Doing so will save our customers significant dollars and help us provide services they actually want such as broadband.

**Q: Does this conclude your direct testimony?**

A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testimony at or before the hearing if I receive additional information pertaining to the issues I presented herein.

#### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served a an original a ten (10) copies of the foregoing **Direct Pre-filed Testimony of Gene Kroell** upon the person herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Woonsocket, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Copies were sent by First Class mail via the U.S. Postal Service to:

Talbot J. Wieczorek  
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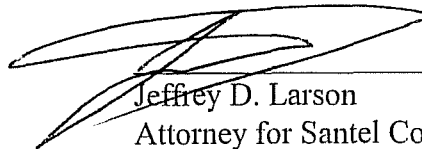
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South Dakota Telecommunications Association  
P.O. Box 57  
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Dated this 14<sup>th</sup> day of May, 2004



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1                   **BEFORE THE PUBLIC UTILITIES COMMISSION OF THE**  
2                   **STATE OF SOUTH DAKOTA**

3  
4   IN THE MATTER OF THE PETITION FOR LOCAL NUMBER       )  
5   PORTABILITY SUSPENSION OR MODIFICATION               )  
6   ON BEHALF OF SANTEL COMMUNICATIONS                    )  
7   COOPERATIVE, INC.    )   Docket No. TC04-038  
8

9  
10  
11                   **DIRECT PRE-FILED TESTIMONY OF**  
12                   **JOHN DE WITTE**  
13

14   **Q:   What is your name and address?**

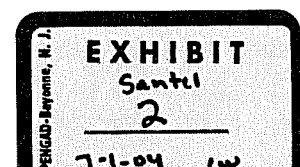
15   A:   My name is John M. De Witte.   My business address is 1801 N. Main Street,  
16       Mitchell, South Dakota 57301.

17   **Q:   By whom are you employed and in what capacity?**

18   A:   I am the Vice President of Engineering of Vantage Point Solutions, Inc. (VPS).  
19       VPS is a telecommunications engineering and consulting firm in Mitchell, South  
20       Dakota with a full-time staff of 52 employees.   Our client base of VPS is made up  
21       of rural independent Local Exchange Carriers (LECs).   I focus on assisting the  
22       small LECs with nearly all technical and financial aspects of their operations.   My  
23       direct staff of 13 and I have provided engineering, financial, and regulatory services  
24       to many of the South Dakota LECs, as well as LECs in several other states.

25   **Q:   What is your educational and business background?**

26   A:   I received a Bachelors of Science in Computer Engineering (1982) from Iowa State  
27       University (Ames, IA) and a Masters of Business Administration (1992) from  
28       Kennesaw Sate College (Kennesaw, GA).   I am a Registered Professional Engineer  
29       in South Dakota and 10 other states.



I have been active in the telecommunications industry since 1983. Previous to VPS, I worked for Martin Group, Inc., based in Mitchell, South Dakota. At Martin Group, I was Assistant Director of Engineering of the Telecom Consulting and Engineering Business Unit, providing engineering and consulting services to rural telecommunications providers throughout the nation. Prior to this, I worked in a variety of engineering, marketing, and management positions at Nortel Networks, Inc., a telecommunications equipment manufacturer in Raleigh, NC, and Atlanta, GA. I am a regular speaker at many state, regional, and national telephone company organization events, including the National Telephone Cooperative Association (NTCA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO). In this capacity, I often advise telephone company managers and board members regarding a variety of technical and financial issues.

**Q: On whose behalf are you testifying in this proceeding?**

A: My direct pre-filed testimony is submitted on behalf of Santel Communications Cooperative, Inc. (Santel).

**Q: What is the purpose of your testimony?**

A: I will provide testimony on technical and cost issues of implementing intermodal LNP that is pertinent to this hearing.

**Q: Are you familiar with current telephone network technologies, including switching equipment, transmission equipment, and outside plant architectures?**

1 A: I have provided engineering and consulting services to more than 100 rural LECs  
2 across the United States. I am familiar with nearly all of the technologies and  
3 architectures of a rural LEC network, including transport equipment, switching  
4 equipment, digital loop carrier equipment, broadband networks, along with copper  
5 and fiber outside plant cable. I have engineered both landline networks and  
6 wireless networks for my clients.

7 **Q: Do you understand the various methods and requirements that are required to**  
8 **support Intramodal (wireline to wireline or wireless to wireless) and**  
9 **Intermodal (wireline to wireless) Local Number Portability?**

10 A: Yes I do.

11 **Q: With the number of variants for LNP, which implementation of LNP is the**  
12 **focus of your testimony?**

13 A: In general, the methodologies, rules, and implementation processes for wireline  
14 Intramodal LNP are clearly defined, have been in place for several years, and are  
15 widely deployed. The methodologies, rules, and implementation processes for  
16 Intermodal (wireline to wireline) LNP and wireless Intramodal LNP have only been  
17 in place since November 2003. Intermodal LNP, relating to wireline to wireless  
18 ports, will be the focus of my direct testimony.

19 **Q: What unique challenges are presented to a rural Independent Local Exchange**  
20 **Carrier (ILEC) with the implementation requirements of Intermodal LNP?**

1 A: There are several technical and economic issues facing rural ILECs as they evaluate  
2 the implementation of Intermodal LNP. These challenges for small rural LECs  
3 concern the interconnection of wireless and wireline networks for the purposes of  
4 implementing Intermodal LNP such as transport, porting interval, and  
5 interconnection. These issues will be discussed in further detail later in my  
6 testimony. The Petitioner does not have existing direct points of connection to  
7 wireless carriers' networks in any of the rate centers it serves. Where there are no  
8 direct points of connection with the wireless carriers, only conventional, switched  
9 toll routes remain; but no translating, routing, rating or cost recovery rules have are  
10 in place. Some of the questions that need to be addressed include: (1) where and  
11 how should the Petitioner interconnect with the wireless carriers, (2) is the point of  
12 interconnection within the LATA, and (3) how will the Petitioner be able to  
13 maintain the original rate center designation and rating when the number is ported  
14 to a point of interconnection that is located outside the original rate center, when the  
15 wireless service area and the Petitioner's service area vary greatly. These issues are  
16 unique in rural areas, such as the Petitioner's service area, where few, if any  
17 interconnection arrangements exist and there are fewer subscribers in comparison to  
18 metropolitan areas over which to spread the costs of Intermodal LNP. The  
19 uncertainty surrounding these and other questions are likely to cause significant  
20 customer confusion, complaints to the Petitioner and the SDPUC, and the resulting  
21 perception of degraded customer service on the part of the Petitioner's members.  
22 Santel has not received a LNP request from a wireline competitive local exchange



1 carrier (CLEC); therefore Santel has not previously implemented LNP. As a result,  
2 numerous upgrades in software and operational procedures will be required in order  
3 to meet the Intermodal LNP requirements, which will benefit only those few  
4 subscribers that choose to leave Santel, while encumbering the entire remaining  
5 subscribers with the burden of funding the porting benefit. In addition, current  
6 implementation rules do not provide the necessary level competitive playing field to  
7 allow wireless subscribers to port to Santel's wireline services.

8 **Q: What are the anticipated costs of implementing Intermodal LNP?**

9 A: The anticipated costs of implementing Intermodal LNP can be categorized into four  
10 (4) basic areas: 1) Switching related costs, 2) Number Portability Administration  
11 Center (NPAC) related costs, 3) Administrative/Technical costs and 4) Transport  
12 Costs. The LNP Petition filed on behalf of Santel included an Exhibit detailing the  
13 estimated implementation costs for intermodal LNP. This Exhibit is attached as  
14 Exhibit [1]. Each of the cost elements in these categories will be identified in the  
15 following paragraphs.

16 **Switching Related Costs**

17 The cost elements in this category include switching generic software upgrades,  
18 LNP software features, prerequisite software features to support the LNP features,  
19 any requisite switch hardware to support the operation of the LNP software, switch  
20 vendor installation costs, vendor software activation fees, and maintenance  
21 expenses attributable to LNP. As part of the cost estimates provided with the Santel  
22 Waiver Petition, the cost estimates for this category are detailed as follows:

1        LNP Hardware Requirements

2        Santel utilizes a Nortel Networks (Nortel) DMS-10 as its wireline switching  
3        platform. Santel has verified with Nortel that the existing DMS-10 configuration  
4        does not require any hardware additions to support the activation of LNP software.  
5        Therefore, Santel did not claim any non-recurring or recurring cost estimates for  
6        LNP hardware as part of its estimated costs.

7        LNP Software Features

8        According to oral conversations with Nortel, the Santel DMS-10 currently has the  
9        generic software load that will support LNP. The LNP software features have not  
10       been activated in Santel's DMS-10. Based on LNP program pricing estimates from  
11       Nortel Networks, the non-recurring cost estimate for the LNP Basic software  
12       feature for DMS-10 switches is \$4 per equipped line, which amounts to \$20,560 for  
13       Santel. Nortel does not charge a recurring Right-To-Use (RTU) fee for these  
14       features. Based on the program pricing information provided by Nortel, Santel  
15       claimed \$20,560 for LNP software features and did not claim any recurring cost  
16       estimates for LNP software as part of its estimated costs.

17       Additional Vendor Fees

18       Santel does not participate in Nortel's annual software upgrade program (Nortel's  
19       SR-10 program). As a result, Nortel will assess a fee for the activation of LNP  
20       features if they are ultimately required as a result of this hearing. Based on oral  
21       LNP pricing estimates from Nortel Networks, Santel also claimed as a Non-

1 Recurring Additional Software Fee an estimated \$5,000 charge required for feature  
2 activation.

3 Initial LNP Translations

4 There are several activities that are required to initially set up and test the basic  
5 translations for LNP. The non-recurring initial translations cost estimates were  
6 based on the anticipated fees to data-fill and test basic LNP functionality in the  
7 Petitioner's switching system. This testing includes coordination of testing with the  
8 SOA provider, coordination of testing with any transiting carriers, verification of  
9 proper LNP dip activities, verification of billing system interaction, and other  
10 translations activities. This cost estimate is approximately \$10,000. In order to  
11 allow time for coordination of testing with other entities, it is assumed that the  
12 initial translations testing will require approximately two (2) man-weeks of  
13 translation activities by a 3<sup>rd</sup> party technical consultant for its host switch, at a  
14 loaded hourly rate of \$100. The remaining portion of this cost estimate includes  
15 travel, living and other miscellaneous expenses.

16 Technical Implementation and Testing

17 There are several activities that are required to initially set up and test the basic  
18 translations for each CMRS carrier requesting Intermodal LNP. The non-recurring  
19 technical implementation and testing cost estimates were based on the anticipated  
20 fees to data-fill and test specific Intermodal LNP functionality in the Petitioner's  
21 switching system. The non-recurring technical implementation and testing cost  
22 estimates were based on performing number porting tests individually associated

1 with each CMRS to ensure that the ported number route correctly flows through the  
2 Petitioner's network. As the FCC has not required a formal Interconnection  
3 Agreement, it is assumed that the Petitioner will be responsible for performing these  
4 tests in order to ensure proper call routing. This cost estimate was based on \$5,000  
5 per CMRS Carrier. The cost estimate is based on 40 hours of testing at \$100 per  
6 hour for each appropriate wireless carrier by a 3rd party resource and includes  
7 travel and living expenses. Santel included estimates for two (2) CMRS carriers  
8 (assuming Western Wireless and Verizon). If additional CMRS carriers begin to  
9 offer services in Santel's exchange areas, Santel expects this estimate to increase by  
10 \$5,000 per CMRS carrier.

#### 11 **NPAC Related Costs**

12 The cost elements in this category include Service Order Administration (SOA)  
13 costs, LNP Query costs, and connection costs with the LNP database. As part of  
14 the cost estimates provided with the Santel Waiver Petition, the cost estimates for  
15 this category are detailed as follows:

#### 16 Service Order Administration

17 As part of the LNP implementation process, the Petitioner must select a provider to  
18 administer updates to the Number Portability Administration Center (NPAC) LNP  
19 database. In anticipation of reduced porting intervals in the future, the Petitioner  
20 has elected to include the costs for an automated SOA system. The SOA cost  
21 estimates were based a compilation of SOA services price lists from several firms  
22 providing automated SOA services. These cost estimates represent the anticipated

1 start-up costs and recurring costs levied by the SOA provider to utilize its  
2 automated services to update the LNP databases. The sample pricing scenarios  
3 were obtained under Non Disclosure Agreement (NDA) from several SOA services  
4 providers. As the Petitioner has not entered into any contracts with these or any  
5 SOA entities, firm pricing cannot be provided. As an estimate, the non-recurring  
6 SOA costs were assumed to be \$2,000 with the recurring SOA costs assumed to be  
7 \$500. Should the Petitioner enter into a contract with an automated SOA provider,  
8 these cost estimates can be revised.

9 LNP Query Charges

10 With the implementation of LNP, the Petitioner will incur charges for each LNP  
11 query launched for its subscribers. The LNP query cost estimates were based on a  
12 compilation of SOA services price lists from several firms providing automated  
13 SOA services. The sample pricing scenarios were obtained under NDA from  
14 several SOA Services providers. As the Petitioner has not entered into any  
15 contracts with these or any SOA entities, firm pricing cannot be provided. The non-  
16 recurring LNP Query cost estimate represents the anticipated start-up costs levied  
17 by the SOA provider to utilize its services to dip its database. This initial set-up  
18 charge is assumed to be \$500. The recurring LNP Query cost estimates were based  
19 on the assumption that each of the Petitioner's access lines would generate five (5)  
20 to six (6) call attempts per day, each of the call attempts would generate an LNP  
21 query. The query charge is assumed to range between \$0.001 and \$0.0005 per  
22 query. Based on these assumptions, the recurring LNP Query charge was assumed

1 to be \$600. Should the Petitioner enter into a contract with an automated SOA  
2 provider, these cost estimates can be revised.

3 Connection Costs w/LNP Database

4 With the implementation of LNP, the Petitioner will incur set-up charges levied by  
5 the SOA provider to enter its NECA Operating Company Number (OCN) and Point  
6 codes for each switch launching LNP queries to the SOA's LNP database. The  
7 non-recurring connection costs with LNP database estimate was based on a  
8 compilation of SOA services price lists from several firms providing automated  
9 SOA services. The sample pricing scenarios were obtained under NDA from  
10 several SOA Services providers. As the Petitioner has not entered into any  
11 contracts with these or any SOA entities, firm pricing cannot be provided. The cost  
12 estimate for this element was estimated at \$150 assuming a maximum of one (1)  
13 point code at \$150 per point code. Should the Petitioner enter into a contract with  
14 an automated SOA provider, this cost estimate can be revised.

15 **Technical and Administrative Costs**

16 The cost elements in this category include testing and verification of each ported  
17 DN, translations for each ported DN, administrative cost estimates, regulatory cost  
18 estimates, customer care cost estimates, and marketing cost estimates. As part of  
19 the cost estimates provided with the Santel Waiver Petition, the cost estimates for  
20 this category are detailed as follows:

21 Testing and Verification of Each Ported Dial Number

1 This cost estimate addresses the anticipated activities to test each “ported out”  
2 directory number (DN) to verify the proper routing of the DN. The recurring  
3 Testing/Verification cost estimates were based on one (1) hour per port at the  
4 Petitioner’s loaded technical labor costs of \$35 per hour.

5 Per Port Translations

6 This cost estimate addresses the anticipated translations activities to “port out” each  
7 DN. The recurring translations cost estimate was based on one (1) hour per port at  
8 the Petitioner’s loaded technical labor costs of \$50 per hour.

9 Administrative Costs

10 The implementation of LNP will require Santel to implement new administrative  
11 policies and procedures. The non-recurring administrative cost estimates were  
12 based on providing LNP process training for the Petitioner’s administrative  
13 personnel. The training is assumed to be provided by the entity providing  
14 automated SOA services. The Petitioner has not selected a SOA provider at this  
15 time. The non-recurring costs estimates are based on a one-week onsite customer  
16 service representative training class, including the instructor’s travel and living  
17 expenses. This cost is assumed to be \$10,000. The recurring administrative cost  
18 estimate addresses the anticipated administrative activities required with entry of  
19 the ported number into the SOA system. The recurring administrative cost  
20 estimates were based on one (1) hour per port at the Petitioner’s loaded  
21 administrative labor costs of \$46 per hour.

22 Regulatory Costs

1 This cost element is associated with the Petitioner's Legal Fees and Regulatory  
2 Consulting fees. The legal fees are associated with the Petitioner's attorneys. The  
3 anticipated fees are associated with reviewing the legal aspects of LNP filings and  
4 LNP implementation. The regulatory consulting fees are typically associated with  
5 the updates required to various National databases (NECA Tariff 4, Telcordia  
6 LERG, etc.) and the possible assistance with the completion of the NECA End User  
7 Charge worksheets. This cost is estimated at 100 hours at an average rate of \$150  
8 per hour and includes travel, living, and miscellaneous expenses. Based on the  
9 legal activities required to implement LNP, the Petitioner may revise this figure at a  
10 later date.

11 Customer Care Costs

12 The implementation of LNP will require Santel to implement new customer care  
13 policies and procedures. The non-recurring customer care cost estimates were  
14 based on providing LNP customer care training for the Petitioner's administrative  
15 personnel. The training is assumed to be provided by the entity providing the  
16 Petitioner's billing platform services. The Petitioner has not developed the  
17 Customer Care and Billing processes for LNP at this time. The costs estimates are  
18 based on a one-week onsite Operational Support Services (OSS) training class. The  
19 recurring customer care cost estimates were based on one-half (1/2) hour per port at  
20 the Petitioner's loaded administrative labor costs of \$46 per hour. This cost  
21 estimate addresses the anticipated administrative activities required with updating  
22 the Petitioner's customer care and billing system and to track the "ported out" DNs.



1        Marketing and Informational Flyer Cost Estimates

2        The implementation of LNP will likely generate subscriber confusion from the  
3        addition of an End User Charge for the implementation of LNP. The Petitioner  
4        plans to develop an informational flyer to help educate the subscriber base by  
5        explaining LNP and the reasons for the proposed LNP End User Charge appearing  
6        on the subscribers' monthly local service bill. The non-recurring marketing and  
7        informational flyer cost estimates were based on the costs required to develop an  
8        informational flyer and billing insert explaining LNP and any end-user fees that  
9        may apply. The total non-recurring estimated costs in this category were expressed  
10       as a "per access line" cost and were estimated at approximately \$3 per subscriber.  
11       This cost estimate includes the development of the explanatory LNP text, the  
12       graphic design artwork, and first run printing costs. The recurring marketing and  
13       informational flyer cost estimates were based on approximately \$3 per subscriber  
14       per year for volume print costs, handling, and mailing the periodic flyer/bill insert.  
15       This recurring marketing/informational flyer cost estimate was amortized over 12  
16       months to arrive at an estimated monthly fee for the Cost Exhibit.

17       Billing/Customer Care Software Updates

18       The Petitioner's billing and customer care system will require software upgrades to  
19       support LNP. The non-recurring billing and customer care software upgrade cost  
20       estimates represents the anticipated costs to upgrade the Petitioner's billing system  
21       to accommodate LNP functionality. This upgrade was estimated as an allocated  
22       cost of the Petitioner's annual billing system upgrade

**Transport-Related Cost Estimates**

The cost elements in this category include the estimated costs of transport to connect the Petitioner's exchange with the CMRS carriers, anticipated cost estimates for transiting CMRS connections, and anticipated cost estimates for pass-through N-1 Tandem LNP queries. As part of the cost estimates provided with the Santel Waiver Petition, the cost estimates for this category are detailed as follows:

**Transport Cost Estimates**

The Petitioner will require direct Type 2B DS1 transport facilities from the Petitioner's exchange to each CMRS provider's Point of Interconnection (POI) for those CMRS carriers requesting intermodal LNP. The Petitioner does not possess POI information for each CMRS carrier. The non-recurring wireless carriers POI cost estimates represent the costs associated with providing a Type 2B DS1 span to each CMRS provider. As stated in the Petition, the Petitioner assumes interconnection will be required with four (4) CMRS carriers. The Petitioner estimates that the non-recurring transport costs for each CMRS will be approximately \$5,000 per exchange. This cost estimate includes the switch DS1 interface hardware and supporting equipment required to place a DS1 span into service. The recurring wireless carriers POI cost estimates were based on monthly transport lease cost estimates. As stated in the Petition, the Petitioner assumes interconnection will be required with four (4) CMRS carriers. These cost estimates were based on oral conversations with SDN Communications. The estimates assume that the recurring transport costs for each Type 2B DS1 will average \$800

1 per month. Santel plans to revise this recurring transport cost estimate once POI  
2 information is provided by the CMRS carriers and firm pricing can be provided by  
3 a transport provider (such as SDN Communications or Qwest).

4 Mobile Telephone Switching Office (MTSO) POI Connection Cost Estimates

5 The Petitioner does not possess POI information for the CMRS carriers that have or  
6 will likely to provide a Bona Fide Request (BFR) to the Petitioner for intermodal  
7 LNP. The possibility exists that a transiting carrier (such as Qwest or SDN  
8 Communications) may establish Type 2B DS1 connections with one or more of the  
9 CMRS carriers. The MTSO POI connection cost estimates represent the anticipated  
10 costs for the Petitioner's share of this connection, if required. The non-recurring  
11 MTSO POI connection cost estimates were based on an estimate of the start-up  
12 costs to utilize a transiting carrier for CMRS MTSO connections, if required. The  
13 recurring MTSO POI connection cost estimates were based on the Petitioner's  
14 anticipated share of monthly lease for the transiting carrier MTSO POI connection  
15 cost estimates, if required. If the CMRS carriers elect to directly connect with the  
16 Petitioner (without a transiting carrier) on a direct Type 2B DS1 connection to the  
17 CMRS' Mobile Switching Telephone Office (MTSO), these cost estimates will  
18 likely be not applicable.

19 Transiting Non-Recurring Dip (Minimum) Cost Estimates

20 This cost estimate was based on the assumption that a transiting carrier may need to  
21 perform some LNP queries when the Petitioner's N-1 carrier fails to do so. The  
22 transiting non-recurring dip cost estimate describes the anticipated costs of the non-

1 recurring set-up charges to enable the Petitioner to receive "pass-through" dip  
2 charges from a transiting carrier, such as SDN Communications. The initial setup  
3 charges are likely to be passed on to Petitioner. Santel has estimated this cost  
4 estimate to be \$500. The transiting carrier recurring dip cost estimates describe the  
5 anticipated costs of the minimum dip charges from a transiting carrier. These  
6 charges are likely to be passed on to Petitioner. Santel has estimated this cost  
7 estimate to be \$100 per month. If the CMRS carriers elect to directly connect with  
8 the Petitioner (without a transiting carrier) on a direct Type 2B connection to the  
9 CMRS' Mobile Switching Telephone Office (MTSO), these cost estimates will  
10 likely be not applicable.

11 **Q: It appears that one of the larger estimated costs projected for the**  
12 **implementation of Intermodal LNP relates to transport costs. What**  
13 **considerations concerning compensation for transport costs are applicable to**  
14 **the implementation of Intermodal LNP?**

15 A: With regard to the direct Type 2B DS1 connections to the wireless carriers  
16 described in the preceding cost estimates, these cost estimates are identified as  
17 required connections to allow Intermodal LNP to function correctly within the  
18 Petitioner's existing billing and customer care systems.

19 **Q: If no direct Type 2B DS1 facilities are available for interconnection with the**  
20 **CMRS carriers, what happens for Santel?**

21 A: Without direct Type 2B facilities, the ported calls will be routed based on the Local  
22 Routing Number (LRN) delivered with the LNP query. The LRN will contain the

1 NPA-NXX of the wireless carrier. Based on this NPA-NXX, these calls will be  
2 routed as toll calls over Santel's existing toll routes to Santel's Access Tandem  
3 (SDN Communications).

4 **Q: In your opinion, are the proposed Type 2B DS1 facilities to each CMRS carrier**  
5 **cost justified?**

6 A: Without actual traffic data, it is impossible to determine the feasibility of a  
7 particular facility. However, based on the anticipated traffic levels generated by the  
8 projected intermodal LNP ports, it appears that the construction of these facilities is  
9 not cost-justified. If the facilities were feasible, it is likely that the wireless carriers  
10 would have implemented them already as they have in other areas. Based on the  
11 projected traffic levels, it appears that the direct facilities between Petitioner and the  
12 wireless carriers required for LNP would be highly under-utilized and very  
13 inefficient.

14 **Q: It appears that some of the anticipated cost estimates are based on the quantity**  
15 **of anticipated numbers that would be ported to a CMRS carrier. How was the**  
16 **number of ports determined?**

17 A: The quantity of projected ports is a function of the competitive environment in the  
18 proposed service area, the number of CMRS carriers, and other statistical data. The  
19 data that is currently available concerning porting activity for CMRS carriers on a  
20 wide-scale basis is limited. It is my understanding that no Petitioner customer has  
21 ever made an inquiry to Petitioner regarding LNP or a request for LNP. With  
22 respect to wireless LNP nationwide, to date, the demand for wireless porting has

1        been far less than expected and most ports have been from one wireless carrier to  
2        another. Wireline to wireless porting appears to be a small fraction of wireless  
3        porting in general.<sup>1</sup> According to NeuStar, 95% of wireless ports have been from  
4        one wireless carrier to another and only 5% of wireless ports were between wireline  
5        and wireless carriers.<sup>2</sup> With lack of ubiquitous quality and incomplete coverage of  
6        the Petitioner's existing service area by the existing wireless carriers, I believe that  
7        the percentage would be even smaller than in other more urban parts of the nation.  
8        For purposes of the cost exhibit, approximately one (1) intermodal port per year  
9        was estimated<sup>3</sup> which is well under the five (5) percent of the Petitioner's access  
10       lines. Accordingly, there appears to be little, if any, demand for LNP and, absent  
11       such demand, no public benefit will be derived from LNP. Even if some level of  
12       LNP demand develops in the future, the total implementation costs that would be  
13       incurred by Petitioner to implement and maintain LNP would require re-evaluation  
14       based on the customer demand, quantity of ports, and the revised estimated costs for  
15       the required LNP infrastructure elements.

16    **Q: Will any of the Petitioner's estimated costs change if the number of estimated**  
17    **ports is changed?**

18    **A:** Yes. There are several of the estimated recurring costs that are driven by the  
19    number of ports. These cost elements include the recurring translations costs, the

---

<sup>1</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.

<sup>2</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p. 4 (March 9, 2004)

1 recurring testing and verification of each ported number, the recurring  
2 administrative cost estimates, and the recurring customer care costs. If the  
3 projected number of ports increases, these costs will increase. If the number of  
4 projected ports decreases, these costs will decrease.

5 **Q: The current porting interval is currently four (4) days. If the porting interval**  
6 **were shortened to two (2) days or less, what effect, if any, would this shortened**  
7 **interval have on the estimated costs?**

8 A: The current industry experience with Intermodal porting is has not been without  
9 implementation issues. Significant problems meeting the current four (4) day  
10 porting interval have been reported. Assuming that the implementation issues are  
11 refined to the point where a shorter porting interval can be supported, the Petitioner  
12 has included the known cost elements to support a shorter porting interval. The  
13 Petitioner has assumed the use of an automated SOA system as part of their  
14 anticipated LNP implementation costs. An automated SOA system will allow the  
15 Petitioner to accommodate an electronic request and acknowledgement for the  
16 ported numbers. Therefore, the Petitioner does not anticipate any increases in its  
17 SOA related non-recurring or recurring cost estimates.

---

<sup>3</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that between one percent (1%) and three percent (3%) are intermodal.

1 It is possible that additional recurring costs in the areas of translations, technical  
2 implementation, testing, verification, customer care, and administrative would  
3 occur if the porting interval were to be reduced to require that porting activities  
4 occur outside of the standard business day (expedited requests, nights, weekends,  
5 and holidays). If porting is required during these times, additional loaded labor  
6 rates will be incurred. If the porting requirements are confined to the standard  
7 business day, the Petitioner does not anticipate any additional recurring LNP costs.  
8 However, it is possible that unforeseen requirements could require additional  
9 charges.

10 **Q: Are there any other potential costs that could impact Santel with the**  
11 **implementation of Intermodal LNP?**

12 A: If Santel must implement intermodal LNP, all carriers with EAS arrangements with  
13 Santel and their customers will be impacted because the other carrier will have to  
14 LNP dip all EAS calls. This would increase the cost of EAS between Santel and the  
15 other carrier and could result in a loss of EAS options to the customer or an increase  
16 in the cost of optional EAS service.

17 **Q: Some telecommunications industry analysts have suggested that Foreign**  
18 **Exchange Service (FX) could be used to provide connections to accommodate**  
19 **intermodal LNP. Is this a reasonable alternative?**

20 A: There have been industry discussions of using an FX service for Intermodal LNP  
21 interconnection. An FX service is a line appearance that is extended from the  
22 "home" exchange to a "foreign" exchange using dedicated point-to-point facilities.



1       The FX service is engineered on a per line basis. It is not a common trunk that can  
2       be used by a carrier for routing purposes. With an FX service, the LEC has  
3       customers and facilities in one rate center and provides service to customers in  
4       another rate center using the same "home" number block. To do this, facilities are  
5       extended from the LEC rate center to the foreign rate center where the customer  
6       resides. It is important to note that the customer pays for the use of these facilities.  
7       The LEC is compensated for their facilities and lost toll revenue through these  
8       customer charges. It is unknown exactly how an ILEC would implement an FX  
9       service to accommodate Intermodal LNP. The exact connectivity, rate elements,  
10      and network configuration for the proposed Intermodal LNP FX service appear to  
11      be undefined. As such, any discussion of using FX as a viable transport alternative  
12      for Intermodal LNP transport is purely speculation.

13   **Q: You have addressed several estimated costs for Intermodal LNP. How would**  
14   **these cost estimates change if the Petitioner must implement only Intramodal**  
15   **(wireline to wireline) LNP?**

16   **A:** All cost elements would stay the same, but the amount of the cost estimates could  
17      change. It is my understanding that both wireline providers would be in the same  
18      rate center. Accordingly, the primary change in the estimated costs would be in the  
19      area of transport costs. The petitioner estimates that these costs would likely be  
20      significantly reduced. Intramodal LNP has clearly defined processes for the  
21      exchange of traffic between the respective wireline carriers competing in a clearly  
22      defined rate center. In the intramodal LNP cases with which I am familiar, the

1 carriers have entered into an Interconnection Agreement. The Intramodal  
2 Interconnection Agreement addresses the methods and compensation that will be  
3 used to establish interconnection and exchange traffic between the wireline carriers.  
4 The compensation for the traffic volumes is typically in the form of reciprocal  
5 compensation. In addition, the recurring costs for testing of each ported number  
6 would likely be reduced since the dialing plans and routing between the carriers will  
7 likely not change on a regular basis. The reduction of these costs is dependent upon  
8 the volume of ports. The remaining costs will likely be unchanged.

9 **Q: What would be the timeframe required for the Petitioner to fully implement,**  
10 **test and place Intermodal LNP into commercial service, if required to do so?**

11 **A:** Please refer to the LNP Implementation Timeline, attached hereto as Exhibit [2].  
12 The Timeline details the individual, inter-dependent tasks necessary to fully  
13 implement Intermodal LNP. They are arrayed in a self-explanatory fashion,  
14 showing the anticipated duration of each task and its relationship to other tasks.  
15 The overall duration that results for the Timeline supports that approximately six  
16 (6) months would be required to fully prepare for, implement, test and place  
17 Intermodal LNP into commercial service, as stated in the Santel Waiver Petition.  
18 As with any planning horizon, this timeline does not take into account holidays or  
19 other unforeseen delays due to Force Majeure.

20

1    **Q: Does this conclude your direct testimony?**

2    A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct  
3    testimony at or before the hearing if I receive additional information pertaining to  
4    the issues I presented herein.

## SANTEL COMMUNICATIONS COOPERATIVE, INC.

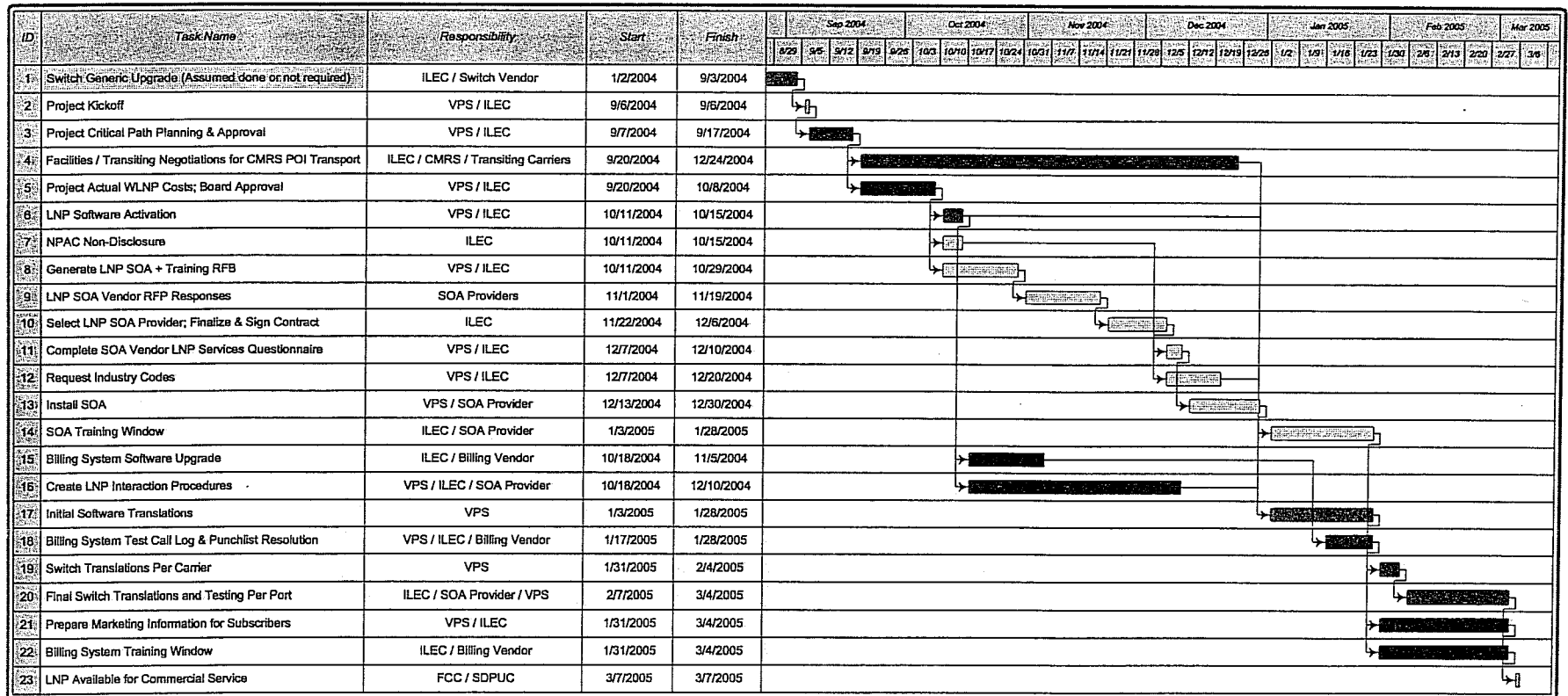
## ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Software Features	\$ 20,560		
Feature Activation	\$ 5,000		
Translations	\$ 10,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 10,000		
<b>Subtotal</b>	<b>\$ 45,560</b>		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 2,000	\$ 500	
LNP Queries	\$ 500	\$ 600	
Connection Costs w/LNP Database	\$ 150	\$ -	
<b>Subtotals</b>	<b>\$ 2,650</b>	<b>\$ 1,100</b>	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 3	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 4	Translations Costs - Ported Numbers
Administrative	\$ 10,000	\$ 4	
Regulatory	\$ 15,000	\$ -	
Customer Care	\$ 10,000	\$ 2	
Marketing/Informational Flyer	\$ 15,000	\$ 1,200	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
<b>Subtotals</b>	<b>\$ 55,000</b>	<b>\$ 1,213</b>	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carrier Points of Interconnection (POI) <sup>1</sup>	\$ 200,000	\$ 32,000	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 201,000</b>	<b>\$ 32,300</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>	<b>\$ 304,210</b>	<b>\$ 34,613</b>	
<b>Current Access Lines</b>	<b>4,827</b>	<b>4,827</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>	<b>\$ 64</b>	<b>\$ 8</b>	
<b>Access Line Impact - First 60-Month Period</b>		<b>\$ 9</b>	

Note 1:

Potentially, the Petitioner can expect to receive requests for Interconnection from 4 wireless carriers (Verizon Wireless, Western Wireless, Sprint PCS, and Nextel). All of these carriers have their wireless switching equipment in separate locations. In order to provide interconnection to these carriers, the Petitioner is including transport cost estimates from each of their switches to these 4 wireless carriers. Petitioner has estimated these transport costs based on the existing network architecture configuration of these wireless carriers, which requires a dedicated facility from each Petitioner switch to the wireless carrier. This configuration is required to resolve the transport and routing issues caused by the implementation of LNP when the wireless carrier does not have a point of interconnection or numbers in the LEC's rate centers.

## LNP Implementation Timeline



Switching-Related

NPAC-Related

Administrative/Technical

Transport-Related

Revised May 11, 2004



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served a an original a ten (10) copies of the foregoing **Direct Pre-filed Testimony of John De Witte** upon the person herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Woonsocket, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Copies were sent by First Class mail via the U.S. Postal Service to:

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P.O. Box 8045  
Rapid City, SD 57709-8045

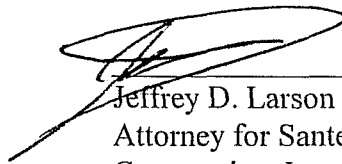
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P.O. Box 280  
Pierre, SD 57501

Richard J. Helsper  
100 22<sup>nd</sup> Avenue, Suite 200  
Brookings, SD 57006

James Cremer  
P.O. Box 970  
Aberdeen, SD 57402-0970

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P.O. Box 57  
Pierre, SD 57501

Dated this 19<sup>th</sup> day of May, 2004

A handwritten signature in black ink, appearing to read "Jeffrey D. Larson", is positioned above a horizontal line. The signature is stylized with a large, sweeping loop at the end.

Jeffrey D. Larson  
Attorney for Santel Communications  
Cooperative, Inc.  
P.O. Box 277  
Woonsocket, SD 57385-0277  
Telephone: 605-796-4245  
Fax: 605-796-4227

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BEFORE THE PUBLIC UTILITIES COMMISSION

MAY 17 2004

OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

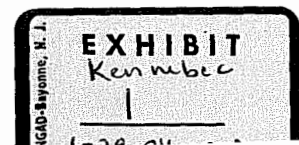
IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

**DIRECT PRE-FILED TESTIMONY OF**

**ROD BOWAR**

May 14, 2004





**DIRECT TESTIMONY OF ROD BOWAR**

**Q: Please state your name and business address.**

A: My name is Rod Bowar, and my business address is P.O. Box 158, 220 South Main, Kennebec, SD 57544. My business telephone number is (605) 869-2220.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Kennebec Telephone Company ("Kennebec"). Kennebec is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to subscribers within its South Dakota service area, which includes the exchanges of Kennebec and Presho. As of December 31, 2003, Kennebec provided service to 751 total access lines, 31 of which receive Lifeline service.

**Q: On whose behalf are you presenting testimony?**

A: I am presenting testimony on behalf of Kennebec.

**Q: What is the purpose of your testimony in this proceeding?**

A: The purpose of my testimony is to explain how the implementation of wireline-to-wireless local number portability ("LNP") would impact the consumers of Kennebec. Specifically, I will review the results of a survey that was conducted for Kennebec, which indicates that the overwhelming majority of our customers do not want wireline-to-wireless LNP at any price. I will also provide demographic information on Kennebec's customers such as age and income distributions. This information further indicates the adverse economic impact that would occur on Kennebec's customers if wireline-to-wireless LNP were to be implemented.

1    **Q.     Please describe how you gathered information regarding the opinions of**  
2           **Kennebec's consumers about the implementation of wireline-to-wireless**  
3           **LNP.**

4    A.    Kennebec commissioned TELEC Consulting Resources, Inc. to conduct a survey  
5           of its consumers. The survey was developed, administered, and analyzed by Ms.  
6           Sue Vanicek. Ms. Vanicek has conducted numerous surveys on telecommunica-  
7           tions issues in her position as a Senior Consultant at TELEC Consulting Re-  
8           sources, Inc., as well as in her previous employment at Lincoln Telephone/Aliant  
9           Communications. I worked with Ms. Vanicek throughout the process, including  
10          discussing the information we would want to collect in a survey, and approving  
11          the questionnaire prior to its distribution.

12   **Q.     How was the survey conducted?**

13   A.    A questionnaire was mailed to each of Kennebec's residential and business cus-  
14          tomers during January, 2004. A total of 575 surveys were mailed, and 208 sur-  
15          veys were returned, for a response rate of 36 percent. A postage-paid return enve-  
16          lope was included with the questionnaire, so that consumers would incur no costs  
17          in completing the survey. The survey explained how wireline-to-wireless LNP  
18          would function, and that consumers would pay a monthly surcharge for five years  
19          so that Kennebec could recover the costs of LNP implementation if it were of-  
20          fered.

21   **Q.     How reliable is the survey?**

22   A.    Ms. Vanicek indicated that based on the number of returned surveys out of the to-  
23          tal mailed, the margin of error for this survey is  $\pm$  4.3 percent at the 95 percent

1 level of confidence. This means that if the survey were conducted 100 times, 95  
2 out of 100 times the results would be within  $\pm 4.3$  percent of the results generated  
3 by this survey.

4 **Q. How willing are consumers to pay an LNP surcharge in order to have wire-**  
5 **line-to-wireless LNP available to them?**

6 A. Only about one-fifth of Kennebec's customers (21.4 percent) said that they would  
7 be willing to pay a surcharge of \$0.50 per month for LNP. When asked if they  
8 would be willing to pay a surcharge of \$1.00 per month, the proportion dropped to  
9 11.8 percent, or about one in ten customers. When asked if they would be willing  
10 to pay a surcharge of \$2.00 per month, the proportion dropped to 2.6 percent, or  
11 about one in forty customers. Only 1.6 percent of Kennebec's customers said  
12 they would be willing to pay a surcharge of \$3.00 per month for LNP.

13 **Q. What other information did the survey reveal?**

14 A. About three-quarters of the survey respondents (73.4 percent) said they have a  
15 wireless telephone. Therefore, if the South Dakota Public Utilities Commission  
16 ("Commission") ordered Kennebec to provide wireline-to-wireless LNP, about  
17 one-fourth of Kennebec's customers would be paying a charge for a feature they  
18 would never use, because they do not own a wireless phone to which they could  
19 port their landline telephone number.

20 **Q. What types of comments did Kennebec's consumers make on wireline-to-**  
21 **wireless LNP?**

22 A. At the end of the survey we asked consumers to provide any written comments  
23 they wished to make on wireline-to-wireless LNP. There were three common

1 themes in the responses. One theme was that Kennebec's customers do not want  
2 to pay for a service that they would not use. A second common theme was that  
3 wireless service was poor or nonexistent in many of the areas served by Kenne-  
4 bec. A third theme contained in the comments was that customers thought rates  
5 were high enough and did not want to see any rate increases.

6 **Q. Do you have any other observations on the comments you received from**  
7 **Kennebec's consumers?**

8 A. Yes. I understand that the Federal Communications Commission ("FCC") has  
9 stated that wireline-to-wireless LNP is a benefit to consumers. However, com-  
10 ments we received included responses such as "THIS IS GOV. SHORTSIGHT-  
11 EDNESS" and "stupid." I think these comments indicate that not all consumers  
12 agree with the FCC that wireline-to-wireless LNP is beneficial.

13 **Q. Have any subscribers requested LNP from your company?**

14 A. No, we have had no subscriber requests for LNP.

15 **Q. Have any wireline carriers requested LNP from your company?**

16 A. No, we have received no requests for LNP from wireline carriers.

17 **Q. Have any wireless carriers submitted requests for LNP?**

18 A. Yes.

19 **Q. How much time would be required for your company to provide LNP,**  
20 **if ordered by the Commission?**

21 A. Kennebec has not completed a specific implementation time line yet, but  
22 Implementation takes a considerable amount of time.

1   **Q.     Please describe what demographic information reveals about Kennebec's**  
2       **customers.**

3    A.    The areas served by Kennebec are composed of consumers who are older and  
4           have lower incomes than the nation as a whole. For example, one in five resi-  
5           dents (20.4 percent) of Kennebec and Presheo are 65 or older as of the 2000 Cen-  
6           sus of Population. This compares to about one in eight people (12.4 percent) in  
7           the United States in that same age group. About three in ten households (28.3  
8           percent) in Kennebec and Presheo have incomes of less than \$20,000 per year, ac-  
9           cording to the 2000 Census. This compares with about two in ten households  
10          (22.1 percent) in the United States in that same range of income.

11   **Q.     What does this demographic data indicate in terms of the impact of a possi-**  
12       **ble LNP surcharge and/or other rate increases to recover the cost of LNP**  
13       **implementation on Kennebec's customers?**

14   A.    Many elderly households are on fixed incomes. Because Kennebec serves a  
15          greater proportion of elderly than the national average, an LNP surcharge or other  
16          rate increases to recover the cost of LNP implementation could cause a greater  
17          burden on Kennebec's customers than occurs in the nation as a whole. This same  
18          statement regarding the burden on Kennebec's customers is also true with regard  
19          to income. Because Kennebec serves a greater proportion of households with low  
20          incomes than the nation as a whole, the burden imposed by an LNP surcharge or  
21          other rate increases related to LNP implementation will cause a greater burden on  
22          Kennebec's consumers.

1    **Q.     Based on the survey results, the lack of requests for LNP, and the demo-**  
2       **graphic data for Kennebec, what do you expect your customer's reaction**  
3       **would be to any new LNP fees that might be added to their bills?**

4    A.    Based on the combination of the vast majority of customers stating they do not  
5           want to pay an LNP surcharge, the customer comments indicating that they do not  
6           want to pay for a service that they will not use, the lack of customer requests for  
7           LNP, and the data demonstrating that Kennebec serves more elderly and low-  
8           income customers than the nationwide average, I would expect a very negative  
9           reaction from customers to the addition of charges on their bill to pay for LNP.

10   **Q.     Based on the survey data and demographic data, what is your conclusion**  
11       **generally about the impact of the implementation of wireline-to-wireless**  
12       **LNP on Kennebec's customers.**

13   A.    I believe that requiring Kennebec to implement wireline-to-wireless LNP would  
14           result in an adverse economic impact on Kennebec's customers. This is one of  
15           the factors to be considered in a petition for a suspension or modification of Sec-  
16           tion 251(b)(2) of the Telecommunications Act of 1996, as discussed in Mr. Wat-  
17           kins' testimony. As I explained, the vast majority of consumers in Kennebec's  
18           service area do not want to pay an LNP surcharge of \$0.50 or more. Further-  
19           more, Kennebec serves a greater proportion of the population that is older and  
20           has lower incomes than the national average, making any LNP surcharge and  
21           other costs that may be passed on to consumers an even greater burden.

22   **Q.     How should the Commission proceed in this matter?**

1 A. As demonstrated in my testimony and the testimony of Messrs. Watkins, Davis,  
2 and Bullock, Kennebec has met the criteria set forth in 47 U.S.C. Section  
3 251(f)(2)(A). In addition, the suspension requested in this proceeding is consis-  
4 tent with the public interest, convenience and necessity requirement set forth in 47  
5 U.S.C. Section 251(f)(2)(B) as is more specifically addressed in Mr. Watkins' tes-  
6 timony. Therefore, I believe Kennebec has met its burden of proof under 47  
7 U.S.C. Section 251(f)(2), and the Commission should grant Kennebec's petition  
8 for suspension or modification.

9 Kennebec requests suspension of the LNP requirement until there is evidence of  
10 reasonable demand for LNP, and until the per-line cost of LNP is reduced. At a  
11 minimum suspension should be granted until six months following the FCC's full  
12 and final disposition of the issues associated with the porting interval and the  
13 routing of calls between wireline and wireless providers, at which time Kennebec  
14 may need to seek further Section 251(f)(2) relief based upon the economic impact  
15 of these decisions.

16 **Q. Does this conclude your testimony?**

17 A. Yes, it does.

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BEFORE THE PUBLIC UTILITIES COMMISSION

JUN 15 2004

OF THE STATE OF SOUTH DAKOTA

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

REBUTTAL TESTIMONY OF

ROD BOWAR

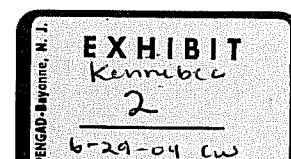
**REBUTTAL TESTIMONY OF**

**ROD BOWAR**

**ON BEHALF OF**

**KENNEBEC TELEPHONE COMPANY**

**June 14, 2004**





1 Q. Please state your name, business name and address.

2 A. **My name is Rod Bowar. I am the General Manager of Kennebec Telephone Com-**  
3 **pany ("Kennebec"), whose address is 209 South Main, Kennebec, South Dakota**  
4 **57544.**

5 Q. What is the purpose of your testimony?

6 A. **I will provide rebuttal testimony to various statements made by Ron Williams in his**  
7 **testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-**  
8 **less).**

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. **I dispute Mr. Williams' characterization of events as baseless and inflammatory.**  
13 **Once the FCC made it clear that wireline carriers would be required to port num-**  
14 **bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Ken-**  
15 **nebec took immediate steps to investigate the cost and the processes involved with**  
16 **LNP and to explore its legal options. Because Kennebec had no experience with**  
17 **LNP, it took time to gather the pertinent information and to make the decision to**  
18 **seek a suspension of the requirement from the Commission. Further, the suspension**  
19 **petition itself took time and effort to prepare because Kennebec wanted to present**  
20 **as complete a petition as possible, accompanied by cost information as complete as**  
21 **possible.**

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
24 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
25 cal calls?"

1    **A.    I believe that Mr. Williams' statement is not consistent with the interconnection**  
2       **agreement signed by Kennebec and Western Wireless. Pursuant to that agreement,**  
3       **Kennebec did not agree to route traffic destined for Western Wireless to the serving**  
4       **tandem. Rather, traffic terminating to Western Wireless is routed to an interex-**  
5       **change carrier. Therefore, it appears that Western Wireless' argument really is a**  
6       **bad faith attempt to change the agreement between the parties.**

7    **Q.    At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it**  
8       **is the originating carrier's responsibility to deliver local traffic for termination and that**  
9       **the costs associated with fulfilling that responsibility are not a number portability cost."**  
10       **What is your response to this statement?**

11   **A.    Mr. Williams' statements are inconsistent and should be rejected. First he argues**  
12       **that Kennebec should be required to install new facilities to deliver ported calls to**  
13       **Western Wireless and then he argues that the cost of those facilities are not number**  
14       **portability costs. Further, as discussed at lines 1-6 above, Mr. Williams' suggestion**  
15       **that it is Kennebec's responsibility to deliver traffic destined to Western Wireless**  
16       **through a serving tandem is not consistent with the interconnection agreement be-**  
17       **tween Kennebec and Western Wireless.**

18   **Q.    At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the**  
19       **Petitioners are inefficient in that they make little or no utilization of existing equipment**  
20       **and shared facilities currently used to exchange calls with other carriers." How do you**  
21       **respond?**

22   **A.    The routing methods reflected in the cost exhibit attached to Kennebec's Petition**  
23       **are based on the current routing arrangements that Kennebec has in place with**  
24       **other carriers, namely, calls that are dialed on a local 7-digit basis are routed via di-**  
25       **rect connections. Therefore, if calls to numbers ported to a carrier are to be dialed**

1 on a local 7-digit basis, a direct connection needs to be established between the car-  
2 riers.

3 Q. Would Western Wireless' routing proposal have impacts to Kennebec beyond LNP?

4 A. Yes. It is my understanding that Western Wireless' proposal would increase Ken-  
5 nebec's costs. First, Western Wireless' proposal would require Kennebec to pay for  
6 new facilities to the tandem provider that it does not need for any purpose other  
7 than to route calls to ported numbers to wireless carriers. Second, Kennebec would  
8 most likely have to pay transit traffic charges to the tandem provider for transport-  
9 ing the traffic to the wireless carriers.

10 Q. Is there any other impact?

11 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
12 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
13 wireless carriers are routed to interexchange carriers. For example, if Kennebec  
14 Customer A calls Western Wireless Customer B, Kennebec Customer A incurs a toll  
15 charge. However, under Western Wireless' proposal, it is my understanding that if  
16 Kennebec Customer A calls Western Wireless Customer B who now has a number  
17 ported from Kennebec, Kennebec Customer A would be charged for a local call.  
18 Customers may be encouraged to "give up" their existing wireless numbers and ob-  
19 tain wireline numbers for the sole purpose of porting that number to avoid toll  
20 charges. This is not only a bad public policy result, but also simply a bad faith at-  
21 tempt to avoid an important contract provision upon which Western Wireless has  
22 already agreed with our company.

23 Q. Does this conclude your rebuttal testimony?

24 A. Yes.

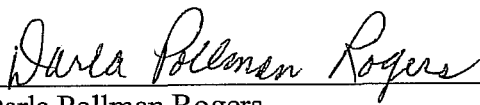
### CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
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Telephone (605) 224-788

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

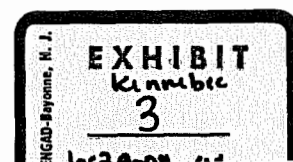
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IN THE MATTER OF THE PETITION  
OF KENNEBEC TELEPHONE COM-  
PANY FOR SUSPENSION OR MODIFI-  
CATION OF § 251(b)(2) OF THE COM-  
MUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025

**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF KENNEBEC TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF DAN DAVIS  
ON BEHALF OF KENNEBEC TELEPHONE  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Dan Davis. I am employed with TELEC Consulting Resources Inc.  
My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
68508.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket  
set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your  
role in this Docket in the "companion" testimony that has been offered in this  
Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was re-  
sponsible for the preparation of Exhibit 1 as was attached to the Petition and I was  
also responsible for the preparation of supporting information prepared in connec-  
tion with the responses to the discovery requests of Western Wireless. I was also  
responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "companion" testimony you have explained the line items that com-  
prise Exhibit 2 and the process used to compile the data that was used to de-  
velop the cost as shown on Exhibit 2. Please discuss where in your "compan-  
ion" testimony you describe this process.**

1 A. The process that was used to compile and develop the cost per line in Exhibit 2 is  
2 described on pages four through six in my "companion" testimony.

3 **Q6. What was the source of the data?**

4 A. The data was derived from the books, financial records and managers of the  
5 RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
6 iffs, service order administration service bureaus, the number portability admini-  
7 stration center, a number portability database provider, and my professional ex-  
8 perience.

9 **Q7. What was the purpose of obtaining that particular data?**

10 A. To assist me in preparing an estimate of the costs to implement LNP for the  
11 RLEC.

12 **Q8. Is this the type of data that experts in your field would ordinarily review in**  
13 **formulating an opinion concerning the costs of LNP?**

14 A. Yes.

15 **Q9. What use did you make of the data after you received it from the RLEC?**

16 A. I have explained the use of the data on page six of my "companion" testimony.

17 **Q10. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total non-recurring costs, excluding transport, to implement**  
19 **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
20 **year recovery period through an end user surcharge?**

21 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
22 \$98,569.00. Such costs were amortized over a recovery period of 60 months us-

1 ing a rate of return of 11.25%. The total nonrecurring costs per month, excluding  
2 transport, amortized over five years is \$2,155.00.

3 **Q11. Have you reached an opinion with a reasonable degree of professional cer-**  
4 **tainty as to the total recurring costs, excluding transport, to implement LNP**  
5 **that you have calculated for the RLEC and that will be recovered from end**  
6 **users on an ongoing monthly charge basis?**

7 A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$381.00 per  
8 month.

9 **Q12. Have you reached an opinion with a reasonable degree of professional cer-**  
10 **tainty as to the total cost, excluding transport, per line per month that would**  
11 **be charged to end-users if LNP were to be implemented by the RLEC?**

12 A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding  
13 the total nonrecurring costs per month amortized over five years to the total recur-  
14 ring costs per month, both amounts excluding transport costs, and dividing this  
15 sum by the RLEC's total access lines. Surcharge and taxes were then applied to  
16 this quotient. The resulting cost per line per month was calculated to be \$3.97.

17 **Q13. Have you reached an opinion with a reasonable degree of professional cer-**  
18 **tainty as to the total LNP costs and the monthly amount recovered from each**  
19 **end-user if the FCC determines that transport costs should be included in the**  
20 **LNP costs recovered from end-users?**

21 A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring  
22 costs, including transport costs, surcharges and taxes, were calculated to be



1           \$7,404.00 per month. The resulting LNP cost per line, per month, including  
2           transport, was calculated to be \$11.58.

3   **Q14. If FCC determines that transport costs should not be included in the end-**  
4           **user surcharge, will the transport cost still be incurred and who will pay**  
5           **these costs?**

6   A.     Transport costs will have to be incurred to transport calls outside of the RLEC's  
7           service area. If the cost is not recovered through an end-user surcharge, and if  
8           these costs are not recovered from the wireless carrier, then the only party to pay  
9           these costs would be the RLEC.

10   **Q15. Is it your opinion that the calculations that you have just described fairly and**  
11           **reasonably describe the non-recurring and recurring costs for the RLEC to**  
12           **implement LNP and the end user charges to recover such costs?**

13   A.     Yes.

14   **Q16. Does this conclude your testimony?**

15   A.     Yes, it does.

**Kennebec Telephone Company**  
**Total Estimated LNP Non-recurring and Recurring Costs**

		With Surcharges/ Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 47,979	
Internal Business Procedure Changes (1)	\$ 20,426	
Inter-carrier Testing	\$ 4,088	
Other Internal Costs (2)	\$ 25,061	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge (3)	\$ -	
Customer Notification Costs	\$ 825	
Total Non-recurring Costs excluding transport	\$ 98,569	
Non recurring transport charges (4)	\$ 1,401	
Total Non-recurring Costs including transport	\$ 99,970	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 90	
LNP Query Costs per month	\$ 150	
Other Recurring Costs	\$ 141	
Total Recurring Monthly Costs excluding Transport	\$ 381	
Transport	\$ 4,837	
Total Recurring Monthly Costs including Transport	\$ 5,218	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 2,155	
Total Nonrecurring cost per month including transport amortized over five years	\$ 2,186	
Total cost per month excluding transport	\$ 2,536	
Total cost per month including transport	\$ 7,404	
Access Lines excluding Lifeline		735
LNP cost per line per month excluding transport (5)	\$ 3.45	\$ 3.97
LNP cost per line per month including transport (5)	\$ 10.07	\$ 11.58

(1) Cost required to analyze and modify existing processes and systems in order to receive and process a request for porting.

(2) Other internal costs include reviewing porting agreements with wireless carriers, completing trading partner profile requests from wireless carriers, completing contracts with the SOA and NPAC, and developing and filing tariffs and documentation for the LNP end-user surcharge and local rate increases.

(3) Service Order Administration (SOA) provides the functionality to interface the LEC's order and provisioning systems in order to update the Number Portability Administration Center (NPAC) for access by all other carriers. Through the use of a SOA, a company is able to submit porting information to the NPAC.

(4) Transport costs will be incurred if the FCC requires LECs to install and absorb the cost of facilities to wireless carriers in order to route calls to ported numbers on a seven-digit dialed basis.

(5) Total costs do not include system changes required to shorten the porting interval or expanding a LEC's local calling area as contemplated by the FCC in its FNPRM.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF INTERSTATE TELECOMMUNICA-  
TIONS COOPERATIVE, INC. FOR  
SUSPENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-054

**DIRECT PRE-FILED TESTIMONY OF**  
**JERRY HEIBERGER**

May 14, 2004



**DIRECT PRE-FILED TESTIMONY OF  
JERRY HEIBERGER**

**Q: What is your name and address?**

A: My name is Jerry Heiberger. My business address is 312 4<sup>th</sup> St. W., Clear Lake, SD, 57226. My business telephone number is (605) 874-2181.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Interstate Telecommunications Cooperative (ITC). ITC is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 14,524 access lines within its South Dakota service area, which includes the 24 exchanges of: Brookings, Clark, Clear Lake, Estelline, Gary, Webster, Astoria, Bradley, Brandt, Bryant, Castlewood, Chester, Elkton, Florence, Goodwin, Hayti, Lake Norden, Nunda, Sinai, Toronto, Waubay, Wentworth, White and Willow Lake.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: Yes. ITC has three Type 2B direct connections with Western Wireless at Brookings (693), Clark (532) and Webster (345). Western Wireless' NXXs for these exchanges are Brookings (690), Clark (233) and Webster (265). In addition, ITC has one Type 2B connection with Verizon Wireless at Brookings (693), Verizon's NXX is (695). ITC does not provide any blocks of numbers to any wireless carrier.

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

1 A: ITC has 24 South Dakota exchanges, many of which are very rural. Our service  
2 areas are defined by where we have physical cable plant. However, the wireless  
3 carriers serve by the reach of a radio frequency from a tower site. Their wireless  
4 local calling areas are often much larger than our exchange boundaries. The  
5 boundaries of our wire/rate centers and the local calling areas of the wireless  
6 carriers serving in our area vary greatly. Many of the local calling areas of the  
7 wireless carriers are defined by either the Basic Trading Area (BTA) or  
8 Metropolitan Trading Area (MTA) boundaries, which are much larger than ITC's  
9 service area.

10 **Q: Does your company provide any Extended Area Service (EAS) plans to its**  
11 **subscribers or to a connecting carrier's subscribers?**

12 A: ITC provides optional EAS calling plans to its members. There is a flat charge for  
13 any EAS calling plan (per exchange) that the customer chooses. No free EAS is  
14 provided between any exchanges.

15 **Q: What is the current method of routing calls from your subscriber's landline**  
16 **phones to wireless phone numbers?**

17 A: As an example, when a subscriber located in Clear Lake uses his/her landline phone  
18 to call a wireless phone number, the call is routed from the subscriber's landline  
19 phone to the Clear Lake central office switch, where it is determined to be a non-  
20 local call and is therefore switched to a toll trunk group. The toll trunk carries the  
21 call to SDN Communication's (SDN) Centralized Equal Access (CEA) Tandem,  
22 which is located in Sioux Falls, to be routed to the appropriate Point of  
23 Interconnection (POI) of the wireless carrier.

1           If the call originates from an ITC customer that subscribes to an EAS  
2           exchange that has a Western Wireless, Verizon, Sprint, or RCC NXX, the call is  
3           routed via the EAS network to the appropriate wireless carrier. If the call originates  
4           from an ITC customer that is local to the exchange which has a Western Wireless or  
5           Verizon NXX, the call is routed via local trunks to the appropriate wireless carrier.  
6           All other originating calls to wireless carriers are routed via existing toll trunks to  
7           the Access Tandem at SDN Communications.

8   **Q: What is the number of wireless carriers authorized to serve in your company's**  
9   **service area?**

10 A: To my knowledge, six (6) wireless carriers are authorized to serve in ITC's service  
11 area (Verizon Wireless, Western Wireless, Sprint PCS, RCC, Midwest Wireless and  
12 Nextel).

13 **Q: Have any subscribers requested local number portability (LNP) from your**  
14 **company?**

15 A: To my knowledge, only a single ITC subscriber has inquired about Intermodal local  
16 number portability from ITC. The inquiry came after I wrote an article about LNP  
17 in my monthly column in ITC's newsletter. In addition to this ITC newsletter  
18 article about LNP, there has also been press and TV coverage in our service area  
19 about this issue after the FCC first issued its November 10 Order.

20 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
21 **requested LNP from your company?**

22 A: Yes, Midcontinent Communications has requested LNP in ITC's Webster and  
23 Waubay exchanges.

1   **Q: Have any wireless carriers submitted bona fide requests for LNP and if so**  
2   **when?**

3   A: Yes. Western Wireless (November 2003), Verizon (February 2004) and RCC  
4   (April 2004).

5   **Q: Are there any existing capital investments for broadband that will be diverted**  
6   **if your company must deploy LNP?**

7   A: Yes. DSL and broadband services are of utmost importance to our customers. Of  
8   all our new services, our customers are most interested in broadband. We are  
9   upgrading our networks to provide broadband services. Any amount of capital  
10   investment that is diverted to the implementation of LNP will reduce needed capital  
11   from broadband investments. ITC is a rural company and has limited resources to  
12   fund network investments into rural areas. We would prefer to serve the real  
13   demands of our customers rather than provide a service that has been mandated by  
14   the FCC that has very limited demand.

15   **Q: What will the impact be on ITC and its customers if it is required to provide**  
16   **wireless LNP?**

17   A: If WLNP is required, the cost of implementing intermodal LNP would significantly  
18   impact ITC and its customers. Exhibit 1(b) to the direct prefiled testimony of John  
19   DeWitte shows a non-recurring impact of \$54 per access line and a reoccurring  
20   impact of \$12 per line. This is for a service that only one customer has requested to  
21   date. There is little demand for intermodal LNP in our service area. With little  
22   demand there is a substantial burden to pay for the service. Further, the vast

1 majority of our customers would have to pay for those few who may decide to port  
2 their numbers. It's a very poor bargain for the majority of our customers.

3 **Q: In your experience as the manager of ITC have you seen increases or additions**  
4 **to the itemized fees on your customer's telephone bills?**

5 A. Yes. I have received numerous comments from ITC's customers expressing their  
6 concerns about the increased charges and fees in recent years. Most notably was  
7 the recent increase to the subscriber line charge (SLC) when it increased from \$3.50  
8 to \$6.50 after the MAG Plan was approved by the FCC.

9 **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
10 **their bills?**

11 A. If ITC is basically forced to increase our customers' fees due to costs related to  
12 deploying LNP, I believe we will have many irate customers contact us and  
13 complain about the rising cost of services. In addition, I believe many customers  
14 may terminate their service with ITC if the increases are too substantial. The vast  
15 majority of our customers would gain no benefit from this service, and I expect  
16 strong protests to the ITC directors, staff and myself. The protests will be similar to  
17 the SLC increase. Many of our customers are elderly. They will be especially hard  
18 hit.

19 **Q: Do you expect that the costs of implementing intermodal LNP could create the**  
20 **necessity of a rate increase for ITC?**

21 A. Depending on what costs are recoverable in any LNP end user fees, if the remainder  
22 is significant, ITC will not be able to absorb them and may have to implement a dial  
23 tone rate increase to recover any deployment costs.



1    **Q: Do you have any concluding comments?**

2    A    There are still so many unknowns regarding intermodal WLNP implementation in  
3           rural exchanges. It makes much more sense to wait for the FCC or Courts to clarify  
4           key issues, such as: 1) How are rural ILECS to interconnect with distant wireless  
5           POI? 2) What would the porting interval be? 3) If a number is ported, how would  
6           ILECs maintain the original wireline rate center when the service areas of wireline  
7           and wireless companies vary so greatly? There are so many unanswered questions  
8           it clearly makes sense to save our resources until these questions are answered.  
9           Doing so would save our customers significant dollars and help us provide services  
10          they actually want such as broadband.

11   **Q: Does this conclude your direct testimony?**

12   A:   Yes. I also reserve the opportunity to revise or modify this pre-filed direct  
13          testimony at or before the hearing if I receive additional information pertaining to  
14          the issues I presented herein.

**RECEIVED**

JUN 15 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF INTERSTATE TELECOMMUNICA-  
TIONS COOPERATIVE, INC. FOR  
SUSPENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-054

REBUTTAL TESTIMONY OF

JERRY HEIBERGER

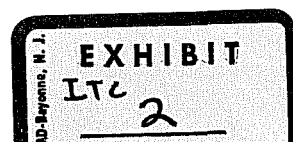
**REBUTTAL TESTIMONY OF**

**JERRY HEIBERGER**

**ON BEHALF OF**

**INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.**

**June 14, 2004**



1 Q. Please state your name, business name and address.

2 A. **My name is Jerry Heiberger. I am the General Manager of Interstate Telecommu-**  
3 **nications Cooperative, Inc. ("ITC"), whose address is 312 West Fourth Street, Clear**  
4 **Lake, South Dakota 57226.**

5 Q. What is the purpose of your testimony?

6 A. **I will provide rebuttal testimony to various statements made by Ron Williams in his**  
7 **testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-**  
8 **less).**

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. **I dispute Mr. Williams' characterization of events as baseless and inflammatory.**  
13 **Once the FCC made it clear that wireline carriers would be required to port num-**  
14 **bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, ITC**  
15 **took immediate steps to investigate the cost and the processes involved with LNP**  
16 **and to explore its legal options. Because ITC had no experience with LNP, it took**  
17 **time to gather the pertinent information and to make the decision to seek a suspen-**  
18 **sion of the requirement from the Commission. Further, the suspension petition it-**  
19 **self took time and effort to prepare because ITC wanted to present as complete a pe-**  
20 **tition as possible, accompanied by cost information as complete as possible.**

21 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
22 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.

1 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
2 cal calls?"

3 A. I believe that Mr. Williams' statement is not consistent with the interconnection  
4 agreement signed by ITC and Western Wireless. Pursuant to that agreement, ITC  
5 did not agree to route traffic destined for Western Wireless to the serving tandem.  
6 Rather, traffic terminating to Western Wireless is routed to Western Wireless via a  
7 direct connection for three of ITC's exchanges. In absence of an ITC customer sub-  
8 scribing to one of ITC's optional EAS plans, traffic terminating to Western Wireless  
9 in all other ITC exchanges is routed to an interexchange carrier. Only traffic  
10 routed to Western Wireless via a direct connection is routed as "local traffic." All  
11 other traffic to Western Wireless is routed to an interexchange carrier as a toll call.  
12 Therefore, it appears that Western Wireless' argument really is a bad faith attempt  
13 to change the agreement between the parties.

14 Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it  
15 is the originating carrier's responsibility to deliver local traffic for termination and that  
16 the costs associated with fulfilling that responsibility are not a number portability cost."  
17 What is your response to this statement?

18 A. Mr. Williams' statements are inconsistent and should be rejected. First he argues  
19 that ITC should be required to install new facilities to deliver ported calls to West-  
20 ern Wireless and then he argues that the cost of those facilities are not number  
21 portability costs. Further, as discussed at lines 3-13 above, Mr. Williams' suggestion  
22 that it is ITC's responsibility to deliver traffic destined to Western Wireless through

1       **a serving tandem is not consistent with the interconnection agreement between ITC**  
2       **and Western Wireless.**

3    Q.    At page 20, lines 13-16, Mr. Williams states that “[t]he routing methods proposed by the  
4       Petitioners are inefficient in that they make little or no utilization of existing equipment  
5       and shared facilities currently used to exchange calls with other carriers.” How do you  
6       respond?

7    A.    **The routing methods reflected in the cost exhibit attached to ITC’s Petition are**  
8       **based on the current routing arrangements that ITC has in place with other carri-**  
9       **ers, namely, calls that are dialed on a local 7-digit basis are routed via direct connec-**  
10       **tions. For example, there is a direct connection between ITC and Western Wireless**  
11       **in the Clark exchange, and therefore, customers in that exchange can call a Western**  
12       **Wireless customer on a local 7-digit basis. Therefore, if calls to numbers ported to a**  
13       **carrier are to be dialed on a local 7-digit basis, a direct connection needs to be estab-**  
14       **lished between the carriers.**

15   Q.    Would Western Wireless’ routing proposal have impacts to ITC beyond LNP?

16   A.    **Yes. It is my understanding that Western Wireless’ proposal would increase ITC’s**  
17       **costs. First, Western Wireless’ proposal would require ITC to pay for new facilities**  
18       **to the tandem provider that it does not need for any purpose other than to route**  
19       **calls to ported numbers to wireless carriers. Second, ITC would most likely have to**  
20       **pay transit traffic charges to the tandem provider for transporting the traffic to the**  
21       **wireless carriers.**

22   Q.    Is there any other impact?

1 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
2 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
3 wireless carriers are routed to interexchange carriers. For example, if ITC Cus-  
4 tomer A calls a Western Wireless customer in an exchange where there is no direct  
5 connection and no EAS arrangement, ITC Customer A incurs a toll charge. How-  
6 ever, under Western Wireless' proposal, it is my understanding that if ITC Cus-  
7 tomer A calls a Western Wireless customer with a number ported from ITC, ITC  
8 Customer A would be charged for a local call. Customers may be encouraged to  
9 "give up" their existing wireless numbers and obtain wireline numbers for the sole  
10 purpose of porting that number to avoid toll charges. This is not only a bad public  
11 policy result, but also simply a bad faith attempt to avoid an important contract  
12 provision upon which Western has already agreed with our company.

13 Q. Does this conclude your rebuttal testimony?

14 A. Yes.

15

CERTIFICATE OF SERVICE

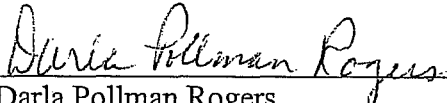
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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David A. Gerdes  
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Dated this fourteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

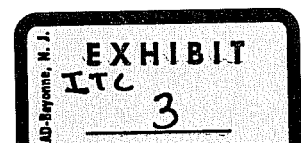
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IN THE MATTER OF THE PETITION  
OF INTERSTATE TELECOMMUNICA-  
TIONS COOPERATIVE, INC. FOR  
SUSPENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-054

**DIRECT PRE-FILED TESTIMONY OF**  
**JOHN DE WITTE**

**May 14, 2004**





**DIRECT PRE-FILED TESTIMONY OF  
JOHN DE WITTE**

**Q: What is your name and address?**

A: My name is John M. De Witte. My business address is 1801 N. Main Street, Mitchell, South Dakota 57301.

**Q: By whom are you employed and in what capacity?**

A: I am the Vice President of Engineering of Vantage Point Solutions, Inc. (VPS). VPS is a telecommunications engineering and consulting firm in Mitchell, South Dakota with a full-time staff of 52 employees. Our client base of VPS is made up of rural independent Local Exchange Carriers (LECs). I focus on assisting the small LECs with nearly all technical and financial aspects of their operations. My direct staff of 13 and I have provided engineering, financial, and regulatory services to many of the South Dakota LECs, as well as LECs in several other states.

**Q: What is your educational and business background?**

A: I received a Bachelors of Science in Computer Engineering (1982) from Iowa State University (Ames, IA) and a Masters of Business Administration (1992) from Kennesaw State College (Kennesaw, GA). I am a Registered Professional Engineer in South Dakota and 10 other states.

I have been active in the telecommunications industry since 1983. Previous to VPS, I worked for Martin Group, Inc., based in Mitchell, South Dakota. At Martin Group, I was Assistant Director of Engineering of the Telecom Consulting and Engineering Business Unit, providing engineering and consulting services to rural telecommunications providers throughout the nation. Prior to this, I worked in a variety of engineering, marketing, and management positions at Nortel Networks,

1 Inc., a telecommunications equipment manufacturer in Raleigh, NC and Atlanta,  
2 GA. I am a regular speaker at many state, regional, and national telephone com-  
3 pany organization events, including the National Telephone Cooperative Associa-  
4 tion (NTCA) and the Organization for the Promotion and Advancement of Small  
5 Telecommunications Companies (OPASTCO). In this capacity, I often advise tele-  
6 phone company managers and board members regarding a variety of technical and  
7 financial issues.

8 **Q: On whose behalf are you testifying in this proceeding?**

9 A: My direct pre-filed testimony is submitted on behalf of Interstate Telecommunica-  
10 tions Cooperative, Inc. (ITC).

11 **Q: What is the purpose of your testimony?**

12 A: I will provide testimony on technical and cost issues of implementing intramodal  
13 LNP and intermodal LNP that is pertinent to this hearing.

14 **Q: Are you familiar with current telephone network technologies, including**  
15 **switching equipment, transmission equipment, and outside plant architec-**  
16 **tures?**

17 A: I have provided engineering and consulting services to more than 100 rural LECs  
18 across the United States. I am familiar with nearly all of the technologies and archi-  
19 tectures of a rural LEC network, including transport equipment, switching equip-  
20 ment, digital loop carrier equipment, broadband networks, along with copper and  
21 fiber outside plant cable. I have engineered both landline networks and wireless  
22 networks for my clients.

**Q: Do you understand the various methods and requirements that are required to support Intramodal (wireline to wireline or wireless to wireless) and Intermodal (wireline to wireless) Local Number Portability?**

**A:** Yes I do.

**Q: With the number of variants for LNP, which implementation of LNP is the focus of your testimony?**

**A:** In general, the methodologies, rules, and implementation processes for wireline Intramodal LNP are clearly defined.. The methodologies, rules, and implementation processes for Intermodal (wireline to wireless) LNP and wireless Intramodal LNP have only been in place since November 2003. Intermodal LNP relating to wireline to wireless ports will be the focus of my direct testimony. However, since the Petitioner has received a request for intramodal LNP from Midcontinent Communications in the Webster exchange, these costs will be addressed as well.

**Q: What unique challenges are presented to a rural Independent Local Exchange Carrier (ILEC) with the implementation requirements of Intermodal LNP?**

**A:** There are several technical and economic issues facing rural ILECs as they evaluate the implementation of Intermodal LNP. These challenges for the small rural LECs concern the interconnection of wireless and wireline networks for the purposes of implementing Intermodal LNP. The Petitioner does not have existing direct points of connection to wireless carriers' networks in many of the rate centers it serves. Where there are no direct points of connection with the wireless carriers, only conventional, switched toll routes remain; but no translating, routing, rating or cost recovery rules are in place. Some of the questions that need to be addressed include: (1) where and how should the Petitioner interconnect with the wireless carriers, (2)

1 is the point of interconnection within the LATA, and (3) how will the Petitioner be  
2 able to maintain the original rate center designation and rating when the number is  
3 ported to a point of interconnection that is located outside the original rate center,  
4 when the wireless service area and the Petitioner's service area vary greatly. These  
5 issues are unique in rural areas, such as the Petitioner's service area, where few, if  
6 any interconnection arrangements exist and there are fewer subscribers in compari-  
7 son to metropolitan areas over which to spread the costs of Intermodal LNP. The  
8 uncertainty surrounding these and other questions are likely to cause significant  
9 customer confusion, complaints to the Petitioner and the SDPUC, and the resulting  
10 perception of degraded customer service on the part of the Petitioner's members.  
11 Numerous upgrades in software and operational procedures will be required in or-  
12 der to meet the Intermodal LNP requirements, which will benefit only those few  
13 subscribers that choose to leave ITC, while encumbering the entire remaining sub-  
14 scribers with the burden of funding the porting benefit. In addition, current imple-  
15 mentation rules do not provide the necessary competitive playing field to allow  
16 wireless subscribers to port to ITC's wireline services.

17 **Q: Has ITC received any requests for Intramodal LNP (wireline to wireline) for a**  
18 **potential wireline competitor?**

19 **A:** Until recently, ITC had not received a LNP request from a wireline competitive lo-  
20 cal exchange carrier (CLEC). ITC has recently received Bona Fide Requests  
21 (BFRs) from Midcontinent Communications to offer competing LEC services in  
22 ITC's Webster and Waubay exchanges.

1   **Q: What are the anticipated costs of implementing Intermodal LNP?**

2   A: The anticipated costs of implementing Intermodal LNP can be categorized into four  
3       (4) basic areas: 1) Switching related costs, 2) Number Portability Administration  
4       Center (NPAC) related costs, 3) Administrative/Technical costs and 4) Transport  
5       Costs. The LNP Petition filed on behalf of ITC included an Exhibit detailing the  
6       estimated implementation costs for intermodal LNP. This Exhibit is attached as  
7       Exhibit [1b]. Each of the cost elements in these categories will be identified in the  
8       following paragraphs.

9       Switching Related Costs

10      The cost elements in this category include switching generic software upgrades,  
11      LNP software features, prerequisite software features to support the LNP features,  
12      any requisite switch hardware to support the operation of the LNP software, switch  
13      vendor installation costs, vendor software activation fees, and maintenance ex-  
14      penses attributable to LNP. As part of the cost estimates provided with the ITC  
15      Waiver Petition, the cost estimates for this category are detailed as follows:

16      LNP Hardware Requirements

17      ITC utilizes a Nortel Networks (Nortel) DMS-10 as its wireline switching platform.  
18      ITC has verified with Nortel that the existing DMS-10 configuration does not re-  
19      quire any hardware additions to support the activation of LNP software. Therefore,  
20      ITC did not claim any non-recurring or recurring cost estimates for LNP hardware  
21      as part of its estimated costs.

22      LNP Software Features

23      According to oral conversations with Nortel, the ITC DMS-10s currently have the  
24      generic software load that will support LNP. The LNP software features have not

1        been activated in ITC's DMS-10s. Based on LNP pricing estimates from Nortel  
2        Networks, the non-recurring cost estimate for the LNP Basic software feature for  
3        DMS-10 switches is \$4 per equipped line, which amounts to \$76,264 for ITC.  
4        Nortel does not charge a recurring Right-To-Use (RTU) fee for these features.  
5        Based on the information provided by Nortel, ITC claimed \$76,264 for LNP soft-  
6        ware features and did not claim any recurring cost estimates for LNP software as  
7        part of its estimated costs.

#### 8        Additional Software Features

9        ITC has verified with Nortel that the existing DMS-10 configuration does not re-  
10       quire any pre-requisite software additions to support the activation of LNP soft-  
11       ware. However, if Directory Number Pooling is implemented in South Dakota for  
12       LNP, additional software features will require activation. Therefore, ITC claimed  
13       \$4,000 in non-recurring costs for this feature as part of its estimated costs.

#### 14       Additional Vendor Fees

15       ITC participates in Nortel's annual software upgrade program (Nortel's SR-10 pro-  
16       gram). As a result, Nortel will activate the LNP software feature bits in ITC's  
17       DMS-10 switching systems at no charge. ITC plans to use RUS funding for the  
18       LNP software charges if they are ultimately required as a result of this hearing. The  
19       processing of the RUS paperwork for the LNP software features is estimated at  
20       \$5,000. Due to this activity, ITC claimed as a Non-Recurring Additional Software  
21       Fee an estimated \$5,000 charge required for feature activation.

#### 22       Initial LNP Translations

23       There are several activities that are required to initially set up and test the basic  
24       translations for LNP. The non-recurring initial translations cost estimates were

1 based on the anticipated fees to data-fill and test basic LNP functionality in the Peti-  
2 tioner's switching system. This testing includes coordination of testing with the  
3 SOA provider, coordination of testing with any transiting carriers, verification of  
4 proper LNP dip activities, verification of billing system interaction, and other trans-  
5 lations activities. This cost estimate is approximately \$27,000. In order to allow  
6 time for coordination of testing with other entities, it is assumed that the initial  
7 translations testing will require approximately one (1) man-week of translations ac-  
8 tivities by a 3<sup>rd</sup> party technical consultant for each of its six (6) host switches, at a  
9 loaded hourly rate of \$100 per hour. The remaining portion of this cost estimate in-  
10 cludes travel, living and other miscellaneous expenses.

#### 11 Technical Implementation and Testing

12 There are several activities that are required to initially set up and test the basic  
13 translations for each CMRS carrier requesting Intermodal LNP. The non-recurring  
14 technical implementation and testing cost estimates were based on the anticipated  
15 fees to data-fill and test specific Intermodal LNP functionality in the Petitioner's  
16 switching system. The non-recurring technical implementation and testing cost es-  
17 timates were based on performing number porting tests individually associated with  
18 each CMRS to ensure that the ported number route correctly flows through the Peti-  
19 tioner's network. As the FCC has not required a formal Interconnection Agree-  
20 ment, it is assumed that the Petitioner will be responsible for performing these tests  
21 in order to ensure proper call routing. The cost estimate is based on 24 hours of  
22 testing at \$100 per hour for each appropriate exchange by a 3rd party resource and  
23 includes travel and living expenses.

1       NPAC Related Costs

2       The cost elements in this category include Service Order Administration (SOA)  
3       costs, LNP Query costs, and connection costs with the LNP database. As part of  
4       the cost estimates provided with the ITC Waiver Petition, the cost estimates for this  
5       category are detailed as follows:

6       Service Order Administration

7       As part of the LNP implementation process, the Petitioner must select a provider to  
8       administer updates to the Number Portability Administration Center (NPAC) LNP  
9       database. In anticipation of reduced porting intervals in the future, the Petitioner  
10      has elected to include the costs for an automated SOA system. The SOA cost esti-  
11      mates were based on a compilation of SOA services price lists from several firms  
12      providing automated SOA services. These cost estimates represent the anticipated  
13      start-up costs and recurring costs levied by the SOA provider to utilize its auto-  
14      mated services to update the LNP databases. The sample pricing scenarios were  
15      obtained under Non Disclosure Agreement (NDA) from several SOA services pro-  
16      viders. As the Petitioner has not entered into any contracts with these or any SOA  
17      entities, firm pricing cannot be provided. As an estimate, the non-recurring SOA  
18      costs were assumed to be \$1,800 with the recurring SOA costs assumed to be  
19      \$2,100. Should the Petitioner enter into a contract with an automated SOA pro-  
20      vider, these cost estimates can be revised.

21      LNP Query Charges

22      With the implementation of LNP, the Petitioner will incur charges for each LNP  
23      query launched for its subscribers. The LNP query cost estimates were based on a  
24      compilation of SOA services price lists from several firms providing automated



1 SOA services. The sample pricing scenarios were obtained under NDA from sev-  
2 eral SOA Services providers. As the Petitioner has not entered into any contracts  
3 with these or any SOA entities, firm pricing cannot be provided. The non-recurring  
4 LNP Query cost estimate represents the anticipated start-up costs levied by the SOA  
5 provider to utilize its services to dip its database. This initial set-up charge is as-  
6 sumed to be \$500. The recurring LNP Query cost estimates were based on the as-  
7 sumption that each of the Petitioner's access lines would generate five (5) to six (6)  
8 call attempts per day; each of the call attempts would generate an LNP query. The  
9 query charge is assumed to range between \$0.001 and \$0.0005 per query. Based on  
10 these assumptions, the recurring LNP Query charge was assumed to be \$1,875.  
11 Should the Petitioner enter into a contract with an automated SOA provider, these  
12 cost estimates can be revised.

#### 13 Connection Costs w/LNP Database

14 With the implementation of LNP, the Petitioner will incur set-up charges levied by  
15 the SOA provider to enter its NECA Operating Company Number (OCN) and Point  
16 codes for each switch launching LNP queries to the SOA's LNP database. The  
17 non-recurring connection costs with LNP database estimate was based on a compi-  
18 lation of SOA services price lists from several firms providing automated SOA ser-  
19 vices. The sample pricing scenarios were obtained under NDA from several SOA  
20 Services providers. As the Petitioner has not entered into any contracts with these  
21 or any SOA entities, firm pricing cannot be provided. The cost estimate for this  
22 element was estimated at \$900 assuming a maximum of six (6) point codes at \$150  
23 per point code. Should the Petitioner enter into a contract with an automated SOA  
24 provider, this cost estimate can be revised.

1       Technical and Administrative Costs

2       The cost elements in this category include testing and verification of each ported  
3       DN, translations for each ported DN, administrative cost estimates, regulatory cost  
4       estimates, customer care cost estimates, and marketing cost estimates. As part of  
5       the cost estimates provided with the ITC Waiver Petition, the cost estimates for this  
6       category are detailed as follows:

7       Testing and Verification of Each Ported Dial Number

8       This cost estimate addresses the anticipated activities to test each “ported out” di-  
9       rectory number (DN) to verify the proper routing of the DN. The recurring Test-  
10      ing/Verification cost estimates were based on one hour per port at the Petitioner’s  
11      loaded technical labor costs of \$46 per hour.

12      Per Port Translations

13      This cost estimate addresses the anticipated translations activities to “port out” each  
14      DN. The recurring translations cost estimate was based on one hour per port at the  
15      Petitioner’s loaded technical labor costs of \$46 per hour.

16      Administrative Costs

17      The implementation of LNP will require ITC to implement new administrative poli-  
18      cies and procedures. The non-recurring administrative cost estimates were based on  
19      providing LNP process training for the Petitioner’s administrative personnel. The  
20      training is assumed to be provided by the entity providing automated SOA services.  
21      The Petitioner has not selected a SOA provider at this time. The non-recurring  
22      costs estimates are based on a one-week onsite customer service representative  
23      training class, including the instructor’s travel and living expenses. This cost is as-  
24      sumed to be \$5,000. The recurring administrative cost estimate addresses the an-

1 anticipated administrative activities required with entry of the ported number into the  
2 SOA system. The recurring administrative cost estimates were based on one hour  
3 per port at the Petitioner's loaded administrative labor costs of \$41 per hour.

#### 4 Regulatory Costs

5 This cost element is associated with the Petitioner's Legal Fees and Regulatory  
6 Consulting fees. The legal fees are associated with the Petitioner's attorneys. The  
7 anticipated fees are associated with reviewing the legal aspects of LNP filings and  
8 LNP implementation. The regulatory consulting fees are typically associated with  
9 the updates required to various National databases (NECA Tariff 4, Telcordia  
10 LERG, etc.) and the possible assistance with the completion of the NECA End User  
11 Charge worksheets. This cost is estimated at 100 hours at an average rate of \$150  
12 per hour and includes travel, living, and miscellaneous expenses. Based on the le-  
13 gal activities required to implement LNP, the Petitioner may revise this figure at a  
14 later date.

#### 15 Customer Care Costs

16 The implementation of LNP will require ITC to implement new customer care poli-  
17 cies and procedures. The non-recurring customer care cost estimates were based on  
18 providing LNP customer care training for the Petitioner's administrative personnel.  
19 The training is assumed to be provided by the entity providing the Petitioner's bill-  
20 ing platform services. The Petitioner has not developed the Customer Care and  
21 Billing processes for LNP at this time. The costs estimates are based on a one-week  
22 onsite Operational Support Services (OSS) training class. The recurring customer  
23 care cost estimates were based on one (1) hour per port at the Petitioner's loaded  
24 administrative labor costs of \$41 per hour. This cost estimate addresses the antici-

1 pated administrative activities required with updating the Petitioner's customer care  
2 and billing system and to track the "ported out" DNs.

### 3 Marketing and Informational Flyer Cost Estimates

4 The implementation of LNP will likely generate subscriber confusion from the ad-  
5 dition of an End User Charge for the implementation of LNP. The Petitioner plans  
6 to develop an informational flyer to help educate the subscriber base by explaining  
7 LNP and the reasons for the proposed LNP End User Charge appearing on the sub-  
8 scribers' monthly local service bill. The non-recurring marketing and informational  
9 flyer cost estimates were based on the costs required to develop an informational  
10 flyer and billing insert explaining LNP and any end-user fees that may apply. The  
11 total non-recurring estimated costs in this category were expressed as a "per access  
12 line" cost and were estimated at approximately \$2.00 per subscriber. This cost es-  
13 timate includes the development of the explanatory LNP text, the graphic design  
14 artwork, and first run printing costs. The recurring marketing and informational  
15 flyer cost estimates were based on approximately \$1.00 per subscriber per year for  
16 volume print costs, handling, and mailing the periodic flyer/bill insert. This recur-  
17 ring marketing/informational flyer cost estimate was amortized over 12 months to  
18 arrive at an estimated monthly fee for the Cost Exhibit.

### 19 Billing/Customer Care Software Updates

20 The Petitioner's billing and customer care system will require software upgrades to  
21 support LNP. The non-recurring billing and customer care software upgrade cost  
22 estimates represents the anticipated costs to upgrade the Petitioner's billing system  
23 to accommodate LNP functionality. This upgrade was estimated as an allocated  
24 cost of the Petitioner's annual billing system upgrade.

1       Transport-Related Cost Estimates

2       The cost elements in this category include the estimated costs of transport to con-  
3       nect the Petitioner's exchange with the CMRS carriers, anticipated cost estimates  
4       for transiting CMRS connections, and anticipated cost estimates for pass-through  
5       N-1 Tandem LNP queries. As part of the cost estimates provided with the ITC  
6       Waiver Petition, the cost estimates for this category are detailed as follows:

7       Transport Cost Estimates

8       The Petitioner will require direct Type 2B DS1 transport facilities from the Peti-  
9       tioner's exchange to each CMRS provider's Point of Interconnection (POI) for  
10      those CMRS carriers requesting intermodal LNP. The Petitioner does not possess  
11      POI information for each CMRS carrier. The non-recurring wireless carriers POI  
12      cost estimates represent the costs associated with providing a Type 2B DS1 span to  
13      each CMRS provider. As stated in the Petition, the Petitioner assumes interconnec-  
14      tion will be required with six (6) CMRS carriers. The Petitioner estimates that the  
15      non-recurring transport costs for each CMRS will be approximately \$4,000 per ex-  
16      change. This cost estimate includes the switch DS1 interface hardware and support-  
17      ing equipment required to place a Type 2B DS1 span into service. The recurring  
18      wireless carriers POI cost estimates were based on monthly transport lease cost es-  
19      timates. As stated in the Petition, the Petitioner assumes interconnection will be re-  
20      quired with six (6) CMRS carriers. The cost estimate for the recurring transport  
21      costs for each Type 2B DS1 is approximately \$1,150 per month, based upon a ver-  
22      bal estimate obtained from SDN Communications. ITC plans to revise this recur-  
23      ring transport cost estimate once POI information is provided by the CMRS carriers

1 and firm pricing can be provided by a transport provider (such as SDN Communica-  
2 tions or Qwest).

### 3 Mobile Telephone Switching Office (MTSO) POI Connection Cost Estimates

4 The Petitioner does not possess POI information for the CMRS carriers that have or  
5 will likely provide a Bona Fide Request (BFR) to the Petitioner for intermodal  
6 LNP. The possibility exists that a transiting carrier (such as Qwest or SDN Com-  
7 munications) may establish Type 2B DS1 connections with one or more of the  
8 CMRS carriers. The MTSO POI connection cost estimates represent the anticipated  
9 costs for the Petitioner's share of this connection, if required. The non-recurring  
10 MTSO POI connection cost estimates were based on an estimate of the start-up  
11 costs to utilize a transiting carrier for CMRS MTSO connections, if required. The  
12 recurring MTSO POI connection cost estimates were based on the Petitioner's an-  
13 ticipated share of monthly lease for the transiting carrier MTSO POI connection  
14 cost estimates, if required. If the CMRS carriers elect to directly connect with the  
15 Petitioner (without a transiting carrier) on a direct Type 2B connection to the  
16 CMRS' Mobile Telephone Switching Office (MTSO), these cost estimates will  
17 likely be not applicable.

### 18 Transiting Non-Recurring Dip (Minimum) Cost Estimates

19 This cost estimate was based on the assumption that the transiting carrier may need  
20 to perform some LNP queries when the Petitioner's N-1 carrier fails to do so. The  
21 transiting non-recurring dip cost estimate describes the anticipated costs of the non-  
22 recurring set-up charges to enable the Petitioner to receive dip charges from a tran-  
23 siting carrier, such as SDN Communications. The initial setup charges are likely to  
24 be passed on to Petitioner. ITC has estimated this cost to be \$500. The transiting

1 carrier recurring dip cost estimates describe the anticipated costs of the minimum  
2 dip charges from a transiting carrier. These charges are likely to be passed on to  
3 Petitioner. ITC has estimated this cost estimate to be \$100 per month. If the  
4 CMRS carriers elect to directly connect with the Petitioner (without a transiting car-  
5 rier) on a direct Type 2B connection to the CMRS' Mobile Telephone Switching  
6 Office (MTSO), these cost estimates will likely be not applicable.

7 **Q: It appears that one of the larger estimated costs projected for the implementa-**  
8 **tion of Intermodal LNP relates to transport costs. What considerations con-**  
9 **cerning compensation for transport costs are applicable to the implementation**  
10 **of Intermodal LNP?**

11 A: With regard to the direct Type 2B connections to the wireless carriers described in  
12 the preceding cost estimates, these cost estimates are identified as required connec-  
13 tions to allow Intermodal LNP to function correctly within the Petitioner's existing  
14 billing and customer care systems.

15 **Q: If no direct Type 2B DS1 facilities are available for interconnection with the**  
16 **CMRS carriers, what happens for ITC?**

17 A: Without direct Type 2B facilities, the ported calls will be routed based on the Local  
18 Routing Number (LRN) delivered with the LNP query. The LRN will contain the  
19 NPA-NXX of the wireless carrier. Based on this NPA-NXX, these calls will be  
20 routed as toll calls over ITC's existing toll routes to ITC's Access Tandem (SDN  
21 Communications).

22 **Q: In your opinion, are the proposed Type 2B DS1 facilities to each CMRS carrier**  
23 **cost justified?**

1 A: Without actual traffic data, it is impossible to determine the feasibility of a particu-  
2 lar facility. However, based on the anticipated traffic levels generated by the pro-  
3 jected intermodal LNP ports, it appears that the construction of these facilities is not  
4 cost-justified. If the facilities were feasible, it is likely that the wireless carriers  
5 would have implemented them already as they have in other areas. Based on the  
6 projected traffic levels, it appears that the direct facilities between Petitioner and the  
7 wireless carriers required for LNP would be highly under-utilized and very ineffi-  
8 cient.

9 **Q: It appears that some of the anticipated cost estimates are based on the quantity**  
10 **of anticipated numbers that would be ported to a CMRS carrier. How was the**  
11 **number of ports determined?**

12 A: The quantity of projected ports is a function of the competitive environment in the  
13 proposed service area, the number of CMRS carriers, and other statistical data.  
14 The data that is currently available concerning porting activity for CMRS carriers  
15 on a wide-scale basis is limited. It is my understanding that no Petitioner cus-  
16 tomer has ever made an inquiry to Petitioner regarding LNP or a request for LNP.  
17 With respect to wireless LNP nationwide, to date, the demand for wireless porting  
18 has been far less than expected and most ports have been from one wireless car-  
19 rier to another. Wireline to wireless porting appears to be a small fraction of  
20 wireless porting in general.<sup>1</sup> According to NeuStar, 95% of wireless ports have  
21 been from one wireless carrier to another and only 5% of wireless ports were be-

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<sup>1</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.



1       tween wireline and wireless carriers.<sup>2</sup> With lack of ubiquitous quality and incom-  
2       plete coverage of the Petitioner's existing service area by the existing wireless  
3       carriers, I believe that the percentage would be even smaller than in other more  
4       urban parts of the nation. For purposes of the cost exhibit, approximately two (2)  
5       intermodal ports per month were estimated,<sup>3</sup> which is well under the five (5) per-  
6       cent of the Petitioner's access lines. Accordingly, there appears to be little, if any,  
7       demand for LNP and, absent such demand, no public benefit will be derived from  
8       LNP. Even if some level of LNP demand develops in the future, the total imple-  
9       mentation costs that would be incurred by Petitioner to implement and maintain  
10      LNP would require re-evaluation based on the customer demand, quantity of  
11      ports, and the revised estimated costs for the required LNP infrastructure ele-  
12      ments.

13   **Q: Will any of the Petitioner's estimated costs change if the number of estimated**  
14   **ports is changed?**

15   A: Yes. There are several of the estimated recurring costs that are driven by the num-  
16      ber of ports. These cost elements include the recurring translations costs, the recur-  
17      ring testing and verification of each ported number, the recurring administrative  
18      cost estimates, and the recurring customer care costs. If the projected number of  
19      ports increases, these costs will increase. If the number of projected ports de-  
20      creases, these costs will decrease.

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<sup>2</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p. 4 (March 9, 2004)

<sup>3</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that between one percent (1%) and three percent (3%) are intermodal.

1 **Q: The current porting interval is currently four (4) days. If the porting interval**  
2 **were shortened to two (2) days or less, what effect, if any, would this shortened**  
3 **interval have on the estimated costs?**

4 A: The current industry experience with Intermodal porting is has not been without  
5 implementation issues. Significant problems meeting the current four (4) day port-  
6 ing interval have been reported. Assuming that the implementation issues are re-  
7 fined to the point where a shorter porting interval can be supported, the Petitioner  
8 has included the known cost elements to support a shorter porting interval. The Pe-  
9 titioner has assumed the use of an automated SOA system as part of their antici-  
10 pated LNP implementation costs. An automated SOA system will allow the Peti-  
11 tioner to accommodate an electronic request and acknowledgement for the ported  
12 numbers. Therefore, the Petitioner does not anticipate any increases in its SOA re-  
13 lated non-recurring or recurring cost estimates. It is possible that additional recur-  
14 ring costs in the areas of translations, technical implementation, testing, verifica-  
15 tion, customer care, and administrative would occur if the porting interval were to  
16 be reduced to require that porting activities occur outside of the standard business  
17 day (expedited requests, nights, weekends, and holidays). If porting is required dur-  
18 ing these times, additional loaded labor rates will be incurred. If the porting re-  
19 quirements are confined to the standard business day, the Petitioner does not antici-  
20 pate any additional recurring LNP costs. However, it is possible that unforeseen re-  
21 quirements could require additional charges.

22 **Q: Are there any other potential costs that could impact ITC with the implemen-**  
23 **tation of Intermodal LNP?**

1 A: If ITC must implement intermodal LNP, all carriers with EAS arrangements with  
2 ITC and their customers will be impacted because the other carrier will have to  
3 LNP dip all EAS calls. This would increase the cost of EAS between ITC and the  
4 other carrier and could result in a loss of EAS options to the customer or an increase  
5 in the cost of optional EAS service.

6 **Q: Some telecommunications industry analysts have suggested that Foreign Ex-**  
7 **change Service (FX) could be used to provide connections to accommodate in-**  
8 **termodal LNP. Is this a reasonable alternative?**

9 A: There have been industry discussions of using an FX service for Intermodal LNP  
10 interconnection. An FX service is a line appearance that is extended from the  
11 “home” exchange to a “foreign” exchange using dedicated point-to-point facilities.  
12 The FX service is engineered on a per line basis. It is not a common trunk that can  
13 be used by a carrier for routing purposes. With an FX service, the LEC has cus-  
14 tomers and facilities in one rate center and provides service to customers in another  
15 rate center using the same “home” number block. To do this, facilities are extended  
16 from the LEC rate center to the foreign rate center where the customer resides. It is  
17 important to note that the customer pays for the use of these facilities. The LEC is  
18 compensated for their facilities and lost toll revenue through these customer  
19 charges. It is unknown exactly how an ILEC would implement an FX service to  
20 accommodate Intermodal LNP. The exact connectivity, rate elements, and network  
21 configuration for the proposed Intermodal LNP FX service appear to be undefined.  
22 As such, any discussion of using FX as a viable transport alternative for Intermodal  
23 LNP transport is purely speculation.

1 **Q: You have addressed several estimated costs for Intermodal LNP. How would**  
2 **these cost estimates change if the Petitioner must implement only Intramodal**  
3 **(wireline to wireline) LNP?**

4 A: All cost elements would stay the same, but the amount of the cost estimates could  
5 change. It is my understanding that both wireline providers would be in the same  
6 rate center. Accordingly, the primary change in the estimated costs would be in the  
7 area of transport costs. The petitioner estimates that these transport costs would  
8 likely be significantly reduced. Intramodal LNP has clearly defined processes for  
9 the exchange of traffic between the respective wireline carriers competing in a  
10 clearly defined rate center. In the intramodal LNP cases with which I'm familiar,  
11 the carriers have entered into an Interconnection Agreement. The Intramodal Inter-  
12 connection Agreement addresses the methods and compensation that will be used to  
13 establish interconnection and exchange traffic between the wireline carriers. The  
14 compensation for the traffic volumes is typically in the form of reciprocal compen-  
15 sation. In addition, the recurring costs for testing of each ported number would  
16 likely be reduced since the dialing plans and routing between the carriers will likely  
17 not change on a regular basis. The reduction of these costs is dependent upon the  
18 volume of ports. The remaining costs will likely be unchanged. As an example, the  
19 anticipated costs to implement intramodal LNP in the Petitioner's Webster ex-  
20 change is attached as Exhibit [1a]. In this exhibit, the reduction in anticipated LNP  
21 implementation costs is primarily due to the removal of the transport costs.

22 **Q: What would be the timeframe required for the Petitioner to fully implement,**  
23 **test and place Intermodal LNP into commercial service, if required to do so?**

1 A: Please refer to the LNP Implementation Timeline, attached hereto as Exhibit [2].  
2 The Timeline details the individual, inter-dependent tasks necessary to fully imple-  
3 ment Intermodal LNP. They are arrayed in a self-explanatory fashion, showing the  
4 anticipated duration of each task and its relationship to other tasks. The overall du-  
5 ration that results for the Timeline supports that approximately six (6) months  
6 would be required to fully prepare for, implement, test and place Intermodal LNP  
7 into commercial service, as stated in the ITC Waiver Petition. As with any plan-  
8 ning horizon, this timeline does not take into account holidays or other unforeseen  
9 delays due to Force Majure.

10 **Q: Does this conclude your direct testimony?**

11 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testi-  
12 mony at or before the hearing if I receive additional information pertaining to the  
13 issues I presented herein.

## Exhibit 1A

## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY  
Webster Exchange Only - Midcontinent Communications

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 15,500		Webster Only
Additional Software Features	\$ 4,000		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 9,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 8,700		
<b>Subtotal</b>	<b>\$ 42,200</b>		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 1,800	\$ 1,350	
LNP Queries	\$ 500	\$ 250	
Connection Costs w/LNP Database	\$ 150	\$ -	
<b>Subtotals</b>	<b>\$ 2,450</b>	<b>\$ 1,600</b>	
<b><u>Technical/Administrative Costs:</u></b>			
		2 Ports/Month	
Testing/Verification of Each Ported Dial Number	\$ -	\$ 92	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 92	Translations Costs - Ported Numbers
Administrative	\$ 4,000	\$ 210	
Regulatory	\$ 5,000	\$ -	
Customer Care	\$ 5,000	\$ 42	
Marketing/Informational Flyer	\$ 5,000	\$ 300	
Maintenance	\$ -	\$ 10	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
<b>Subtotals</b>	<b>\$ 24,000</b>	<b>\$ 746</b>	
<b><u>Transport-Related Costs:</u></b>			
Midco Point of Interconnection (POI)	\$ -	\$ -	
Midco POI Connection	\$ -	\$ -	Transiting Carrier POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 500</b>	<b>\$ 100</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>			
	<b>\$ 69,150</b>	<b>\$ 2,446</b>	
<b>Current Access Lines</b>			
	<b>1,660</b>	<b>1,660</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>			
	<b>\$ 42</b>	<b>\$ 2</b>	
<b>Access Line Impact - First 60-Month Period</b>			
		<b>\$ 3</b>	

## Exhibit 1B



## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

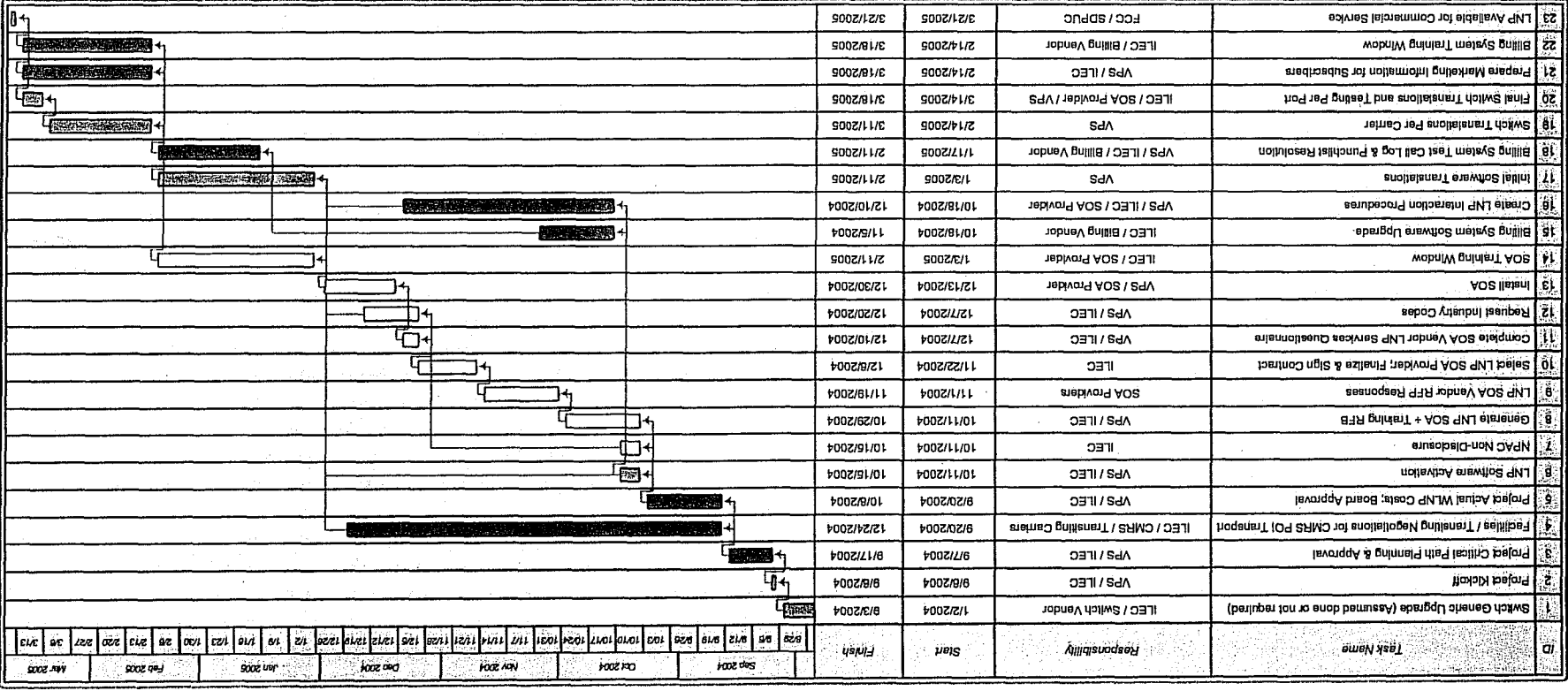
ESTIMATED COSTS TO IMPLEMENT INTERMODAL LOCAL NUMBER PORTABILITY  
All ITC South Dakota Exchanges

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 76,264		
Additional Software Features	\$ 4,000		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 27,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 17,400		
Subtotal	\$ 129,664		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 1,800	\$ 2,100	
LNP Queries	\$ 500	\$ 1,875	
Connection Costs w/LNP Database	\$ 900	\$ -	
Subtotals	\$ 3,200	\$ 3,975	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 90	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 90	Translations Costs - Ported Numbers
Administrative	\$ 8,000	\$ 200	
Regulatory	\$ 15,000	\$ -	
Customer Care	\$ 5,000	\$ 60	
Marketing/Informational Flyer	\$ 30,000	\$ 1,250	Monthly-Rounded up to nearest \$50
Maintenance	\$ -	\$ 10	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
Subtotals	\$ 63,000	\$ 1,720	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carriers Point of Interconnection (POI)	\$ 576,000	\$ 165,870	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
Subtotals	\$ 577,000	\$ 166,170	
<b>Total Estimated Costs Associated with LNP Implementation</b>			
	\$ 772,864	\$ 171,865	
<b>Current Access Lines</b>			
	14,529	14,529	
<b>Total Estimated Costs Per Access Line (Rounded)</b>			
	\$ 54	\$ 12	
<b>Access Line Impact - First 60-Month Period</b>			
		\$ 13	

## Exhibit 2

# Exhibit 2

## ITC LNP Implementation Timeline



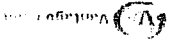
Switching-Related

NPAC-Related

Administrative/Technical

Transport-Related

Revised May 13, 2004



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION FOR LOCAL NUMBER )  
PORTABILITY SUSPENSION OR MODIFICATION )  
ON BEHALF OF )

BROOKINGS MUNICIPAL UTILITIES )  
d/b/a SWIFTEL COMMUNICATIONS )

Docket No. TC04-047

INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC. )

Docket No. TC04-054

JAMES VALLEY COOPERATIVE TELEPHONE COMPANY )

Docket No. TC04-077

SANTEL COMMUNICATIONS )

Docket No. TC04-038

STOCKHOLM-STRANDBURG TELEPHONE COMPANY )

Docket No. TC04-062

VENTURE COMMUNICATIONS COOPERATIVE )

Docket No. TC04-060

WEST RIVER COOPERATIVE TELEPHONE COMPANY )

Docket No. TC04-061

PRE-FILED REBUTTAL TESTIMONY OF  
JOHN DE WITTE

June 14, 2004



1 Q: What is your name?

2 A: My name is John M. De Witte.

3 Q: Are you the same John M. De Witte who filed direct pre-filed testimony in this  
4 proceeding?

5 A: Yes.

6 Q: What is the purpose of your rebuttal testimony?

7 A: To discuss some of the cost and technical issues Western Wireless Corporation  
8 (WWC) raised in the direct testimony of Mr. Ron Williams and to provide informa-  
9 tion regarding the impact of some of WWC's proposals.

10 Q: Have you read the pre-filed direct testimony of Mr. Williams filed on behalf of  
11 WWC in this proceeding?

12 A: Yes.

13 Q: Do you understand the technical issues that were raised in Mr. Williams' Di-  
14 rect Testimony?

15 A: Yes, as I describe in this rebuttal testimony. My staff and I have performed the  
16 technical engineering and economic analysis for many of the rural South Dakota  
17 ILECs over the past several years. We have been involved with the strategic plan-  
18 ning and implementation for many of the broadband networks that are serving rural  
19 South Dakota subscribers today. In every instance with which I am familiar, the  
20 ILECs have carefully invested their limited funds where technology deployments  
21 are feasible and serve the public interest. The South Dakota PUC can be proud of  
22 its role in the encouragement and deployment of those services. I would like to par-  
23 ticularly point out that through cooperative ventures undertaken by the rural ILECs,

1 many operating efficiencies have been realized. As we have demonstrated in our  
2 original petitions, the lack of demand and projected high implementation costs of  
3 LNP do not appear to serve the public interest for the deployment of the service.

4 Q: Mr. Williams believes that the LNP Implementation Costs are overstated in  
5 several categories. Can you provide additional detail to support your cost es-  
6 timates?

7 A: Mr. Williams takes issue with the LNP implementation cost estimates for several  
8 categories. Specifically, Mr. Williams raises issues with transport cost estimates,  
9 SOA cost estimates, LNP Testing/Verification/Administrative cost estimates, and  
10 LNP Marketing Flyer Cost Estimates. I will address each of these categories indi-  
11 vidually.

#### 12 Transport Cost Estimates

13 The transport cost estimates were derived by provisioning a DS1 to each of the Peti-  
14 tioner's rate centers for each wireless carrier. The basis for this methodology is  
15 simple. The Telecom Act of 1996 states that the Point of Interconnection (POI) for  
16 connecting carriers should be at "any technically feasible point *within the carrier's*  
17 *network.*"<sup>1</sup> CMRS carriers with a desire to exchange traffic directly with a wireline  
18 carrier typically order a Type 2B (End Office) or Type 2A (Access Tandem) DS1  
19 facility from the wireline carrier. The CMRS carriers have not universally de-  
20 ployed direct connections to the rural areas served by the Petitioner. In South Da-  
21 kota, the CMRS carriers have ordered (and paid for) very few Type 2B connections  
22 into rural ILEC service areas. Most of the South Dakota ILECs which whom I am  
23 familiar, do not have any existing Type 2B connections. Of the South Dakota

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<sup>1</sup> 47 U.S.C. § 251 (c) (2) (emphasis added)

1 ILECs that do have direct Type 2B connections, it is typically a single connection  
2 to a single exchange. The CMRS carriers have not universally deployed Type 2B  
3 connections to all South Dakota ILEC territories and all ILEC exchanges.

4 The CMRS carriers issued BFRs to the Petitioner for LNP services with a  
5 listing of each of the Petitioner's exchanges by Common Language Location Identifier (CLLI) code. The BFR notifications did not include any provisions for agreements detailing interconnection, transiting, or reciprocal compensation. In addition,  
6 none of the CMRS providers provided any POI information with their BFRs to allow the Petitioner to evaluate transport options or costs. In order to maintain the  
7 proper routing for the wireless calls and local rating for calls to wireless numbers,  
8 the Petitioner assumed that direct Type 2B connections would be deployed in each  
9 exchange for each CMRS carrier. If a CMRS carrier had ordered a Type 2B direct  
10 connection to an exchange, it was assumed that this existing facility would be utilized to carry that CMRS' LNP traffic for that exchange. As none of the CMRS carriers placed orders for Type 2B or Type 2A direct interconnection facilities with  
11 their BFRs, the Petitioner included these costs as part of their Implementation Cost  
12 estimates.  
13  
14  
15  
16  
17

18 The routing methods reflected in the cost exhibits attached to my direct testimony are based on the current routing arrangements that the Petitioner has in  
19 place with other toll and EAS connecting carriers. In general, calls that route using  
20 10 digits are considered to be toll calls and calls that route using 7 digits are considered to be local calls. Calls that use 7 digit dialing either terminate in the Petitioner's network or utilize a direct connection (referred to as an EAS trunk). There-  
21  
22  
23

1 fore, if calls to numbers ported to a carrier are to be dialed on a local 7-digit basis  
2 (local call), a direct connection needs to be established between the carriers, hence  
3 the requirement for direct Type 2B connections with the CMRS carrier. This con-  
4 nectivity is depicted in Rebuttal Testimony Exhibit 1. The Petitioner assumed that  
5 each CMRS provider would require separate facilities since there are no known  
6 Agreements in place that allow the CMRS carriers to share a common connection  
7 with the Petitioner's network. The anticipated cost of the transport facilities from  
8 the Petitioner's exchanges to Sioux Falls, SD was provided by SDN Communica-  
9 tions and attached as Rebuttal Exhibit 2.

10 WWC has agreed to the routing methodology described above, which re-  
11 quires a dedicated Type 2B connection to each end office, in the Reciprocal Com-  
12 pensation Agreement negotiated as part of WWC's arbitration proceeding in South  
13 Dakota. Paragraph 3.1.3 of the Agreement states: "Type 2B Interconnection: Fa-  
14 cilities which provide a trunk side connection between the CMRS Provider and the  
15 Telephone Company end office. The CMRS Provider's POI must be located within  
16 the Telephone Company's end office exchange boundary of that Telephone Com-  
17 pany end office." Since none of the CMRS carriers have ordered Type 2B connec-  
18 tions to every end office, the cost estimates for these transport facilities were in-  
19 cluded in the Petitioner's cost exhibits. As a result, the revised cost exhibit pro-  
20 vided by Mr. Williams in his direct testimony<sup>2</sup> does not accurately depict the trans-  
21 port costs that would be incurred due to the implementation of LNP. The updated  
22 transport figures from Rebuttal Exhibit 1 have been incorporated into the Peti-  
23 tioner's revised cost estimates attached as Rebuttal Exhibit 3.

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<sup>2</sup> Testimony of Ron Williams on behalf of Western Wireless, Exhibit 5B – Transport Related Costs



1 While there may be more efficient network trunking configurations that  
2 could be implemented as Mr. Williams asserts in his direct testimony, there are no  
3 Interconnection Agreements or Reciprocal Compensation Agreements in place for  
4 alternative arrangements and the Petitioners cannot require other carriers to agree to  
5 other arrangements. One way to address the impasse over transport costs may be to  
6 allow the Petitioners to investigate alternative transport options and then offer those  
7 alternatives to carriers that wish to port numbers. Carriers like WWC could then ei-  
8 ther negotiate direct connections through the interconnection process, chose to use  
9 the alternative transport option, or chose not to port with a particular Petitioner.  
10 This would seem to be a fairer alternative than simply placing the entire burden of  
11 transport on Petitioners and their end user customers.

#### 12 Service Order Administration (SOA) Cost Estimates

13 As detailed in our response to WWC's Discovery Requests, the SOA cost estimates  
14 were derived by evaluating planning pricing from several vendors that offer auto-  
15 mated SOA provisioning services. The actual pricing provided by these providers  
16 was obtained under a NDA with the providers. We have asked for permission to re-  
17 lease the data for this proceeding, but to date, the SOA providers have not released  
18 Vantage Point Solutions from the obligations of the NDA to provide actual pricing.  
19 While the actual pricing for each provider is confidential information, the cost esti-  
20 mates can be expressed by looking at the range of pricing for the automated SOA  
21 providers. From the pricing that we have received from these providers, the non-  
22 recurring setup fees range from \$1,800 to \$2,000 with monthly recurring fees rang-  
23 ing from \$500 to \$1,200. The LNP Query charge ranges from monthly recurring

1 minimums of \$100 to \$150 with query charges ranging from \$0.0005 to \$0.00075  
2 per query. In his testimony, Mr. Williams asserts that these costs are overstated  
3 since lower cost alternatives are available based on the number of projected ports.<sup>3</sup>  
4 However, in response to interrogatory 10.b., WWC does not contend that the cost  
5 amounts for an automated SOA interface are unreasonable. (See WWC Response  
6 to Interrogatory 10.b. attached to the Rebuttal Testimony of Steven E. Watkins).  
7 Therefore, if an automated process is not rejected, the cost estimates in the Petition-  
8 ers' cost exhibits should be allowed. The Petitioner agrees that lower cost SOA al-  
9 ternatives are available; however, the factor for generating the SOA cost estimates  
10 was not the quantity of ports, but the porting interval. These manual SOA proc-  
11 esses will not be sufficient if the CMRS carriers are successful in their ongoing ef-  
12 forts to reduce the porting interval from its current duration of four (4) days to the  
13 FCC target of 2.5 hours. Assuming that the CMRS carriers are successful in their  
14 endeavors to reduce the porting interval, the Petitioner assumed the use of an auto-  
15 mated SOA system for the five (5) year costs estimates that will be used to generate  
16 the anticipated NECA End User charge. If the Petitioners are not required to com-  
17 ply with a reduced porting interval, the Petitioners may be able to reduce their SOA  
18 cost estimates by planning to implement a manual, low-tech SOA interface. As a  
19 result, the revised cost exhibit provided by Mr. Williams in his direct testimony<sup>4</sup>  
20 (which uses "low tech" interfaces) does not accurately depict the anticipated SOA  
21 costs that would be incurred due to the implementation of LNP.

22 LNP Testing/Verification/Administrative Cost Estimates

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<sup>3</sup> Testimony of Ron Williams on behalf of Western Wireless, pg 17, lines 9-10

<sup>4</sup> Testimony of Ron Williams on behalf of Western Wireless, Exhibit 5B – NPAC Related Costs

1 In his testimony, Mr. Williams incorrectly asserts that the LNP Testing, Verifica-  
2 tion, and Administration cost estimates "appear to be overstated and redundant".<sup>5</sup>  
3 As stated in our response to WWC's First Set of Discovery Questions 4(a)(iii) and  
4 5(a)(xiii), the Petitioner will be required to perform testing and verification on a re-  
5 curring and non-recurring basis to ensure that the ported calls are routing properly.  
6 This activity differs from the initial switching translations setup and testing that will  
7 be required after the appropriate software features are activated. As stated in my di-  
8 rect testimony, the non-recurring initial translations cost estimates were based on  
9 the anticipated fees to data-fill and test basic LNP functionality in the Petitioner's  
10 switching system. This testing includes coordination of testing with the SOA pro-  
11 vider, verification of proper LNP dip activities, verification of billing system inter-  
12 action, and other translations activities.

13 With the initial software translations in place, additional testing, verifica-  
14 tion, and administration activities will be required for each carrier requesting LNP.  
15 The non-recurring technical implementation and testing cost estimates were based  
16 on the anticipated fees to data-fill and test specific LNP functionality in the Peti-  
17 tioner's switching system. The Petitioner would seek to ensure that all calls route  
18 appropriately for each carrier that has ported one of the Petitioner's numbers. No  
19 carrier has provided a mechanism for alerting the Petitioners to updates and changes  
20 to their dialing plan. As a result, each Petitioner must research the common indus-  
21 try databases and other sources to ensure that the traffic destined for carriers is  
22 routed properly. These anticipated costs are identified as the non-recurring testing  
23 and implementation costs on each Petitioner's cost exhibit. Once the routing in-

---

<sup>5</sup> Testimony of Ron Williams on behalf of Western Wireless, pg 18, lines 2-3

1 formation is tested and verified for each carrier, the Petitioner plans to perform tests  
2 for each ported number as the port is requested to ensure that the ported number  
3 route correctly flows through the Petitioner's network. As a result, the revised cost  
4 exhibit provided by Mr. Williams in his direct testimony<sup>6</sup> does not accurately depict  
5 the recurring testing, verification, and administrative costs that would be incurred  
6 due to the implementation of LNP.

7 Marketing/Informational Flyer Cost Estimates

8 In his testimony, Mr. Williams incorrectly asserts that the Marketing/Informational  
9 Flyer Costs "are not justified on a recurring basis".<sup>7</sup> As stated in our response to  
10 WWC's First Set of Discovery Question 13(d), the Petitioner does not plan to pro-  
11 vide recurring monthly information to customers regarding LNP. The Petitioner  
12 plans to develop a marketing program and provide an explanation of LNP end user  
13 fees to their subscribers on an appropriate periodic basis. The revised cost exhibits  
14 (reference De Witte Rebuttal Exhibit 3) assume a single mailing. In order to arrive  
15 at a monthly estimated cost for the Petitioner's Cost Exhibit, the annual cost esti-  
16 mate for the periodic flyer was divided by twelve (12) to show an average monthly  
17 amount.

18 This type of marketing is required to address customer questions concerning  
19 new LNP End User Charges as well as to educate customers about LNP. As a re-  
20 sult, the Petitioner will incur an expense to provide an informational flyer. This  
21 cost estimate is supported by an advertising and marketing firm. When contacted,  
22 this firm estimated that the cost of the development of a marketing program was

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<sup>6</sup> Testimony of Ron Williams on behalf of Western Wireless, Exhibit 5B – Technical/Administrative Costs

<sup>7</sup> Testimony of Ron Williams on behalf of Western Wireless, pg 18, lines 3-4

1 typically in the range of \$5,000 to \$10,000 depending upon the requirements for  
2 color scheme, concept, copyright, art direction (minimal photography), and final  
3 production. The costs would increase if additional artwork is required. For printing  
4 costs, single page 8"x10" glossy brochures typically run approximately \$800 per  
5 1,000 pieces and color postcards typically run approximately \$800 per 1,000 pieces.  
6 These estimates do not include any radio or television voice work, direction, or  
7 production. In addition, these estimates do not include any setup for newsprint me-  
8 dia. If other marketing services (voice services, brochures, etc.) are required, addi-  
9 tional expenses would likely apply. These revisions have been incorporated into  
10 and are supported by the attached marketing company estimate, which is attached  
11 as Rebuttal Exhibit 4.

12 **Q: Do you have any other comments about Mr. William's testimony with respect**  
13 **to SOA costs and transport costs?**

14 **A:** Yes. Mr. Williams' revised cost estimates are based on the Petitioner's projection  
15 that there will be a low volume of ports. WWC, however, in response to interroga-  
16 tory 13.f. estimates a far greater number of ports per year and over a five year pe-  
17 riod. (See WWC Response to Interrogatory 13.f. attached to the Rebuttal Testi-  
18 mony of Steven E. Watkins). If you assume that other wireless carriers will have a  
19 similar number of ports, the total number of ports per year could be greater than  
20 what I have estimated in my testimony. My SOA and transport cost estimates are  
21 sensitive to the number of ported customers for each Petitioner. Therefore, to the  
22 extent that the number of ports is closer to WWC's testimony than mine, my cost  
23 estimates could increase significantly. Further, under WWC's assumptions and

1 formulas, the cost of LNP will be greater than that reflected in Mr. Williams' cost  
2 exhibit.

3 Q: How does the number of ported customers impact any end user charge for  
4 LNP?

5 A: If WWC's estimate of the number of ports is correct, there will be far fewer Peti-  
6 tioner subscribers and, therefore, the per subscriber cost of LNP will be much  
7 greater than the per subscriber cost projected by WWC.

8 Q: Is there a way to try to better estimate how many ports may occur and, there-  
9 fore, more accurately determine the per subscriber cost of LNP?

10 A: Yes. A review of the actual number of wireline to wireless ports in other rural areas  
11 over some period of time may provide a better indication of how many of Peti-  
12 tioner's customers may chose to port their numbers to wireless carriers.

13 Q: There are several South Dakota ILECs that have Type 1 line side connections  
14 to CMRS carriers. How are these connections affected by LNP requirements?

15 A: For clarification, Type 1 line side numbers reside in an end office of a LEC and are  
16 assigned to a Type 1 interconnection group, which connects the wireless carrier's  
17 switch and the LEC's end office switch. Type 2 directory numbers reside in a wire-  
18 less carrier's switch and are assigned to a Type 2 interconnection group, which  
19 connects the wireless carrier's switch and a LEC access tandem switch (Type 2A)  
20 or end office switch (Type 2B). In the November 10, 2003 *Order*, the FCC ac-  
21 knowledged the inherent difficulties and complexities that would be involved with  
22 mandating LNP with Type 1 connections. The FCC found that no action was nec-  
23 essary regarding the porting of numbers served by Type 1 interconnection because

1 carriers are migrating these numbers to switches served by Type 2 interconnection  
2 or are otherwise developing alternative solutions.<sup>8</sup> In his direct testimony, Mr. Wil-  
3 liams incorrectly asserts that wireless to wireless portability will be hampered in  
4 South Dakota due to these Type 1 connections<sup>9</sup>. However, in response to interroga-  
5 tory 19, WWC admits that it is not required to use numbers assigned by LECs and  
6 that it can obtain its own numbers. (See WWC Response to Interrogatory 19 at-  
7 tached to the Rebuttal Testimony of Steven E. Watkins).

8 **Q: In his Direct Testimony, Mr. Williams asserts that the risk for implementing**  
9 **LNP immediately is low.<sup>10</sup> What do you see as the risks for immediate imple-**  
10 **mentation of LNP?**

11 **A:** It appears that Mr. Williams is looking at the risk for implementing LNP from  
12 WWC's viewpoint, not the viewpoint of the Petitioner or its customer that will pay  
13 for the LNP implementation through End User charges. WWC's risk for immediate  
14 implementation of LNP is a very low risk because WWC appears to have the opin-  
15 ion that they should not have to compensate the Petitioner for transport, transiting,  
16 or any other LNP related costs. WWC expects the Petitioner or its customers to pay  
17 for all of these costs. At the same time, they are arguing that the LNP transport  
18 costs are minimal, even if direct connections do not exist. Based on the Discovery  
19 Responses provided by WWC, their solution appears to rely on the use of Qwest as  
20 a traffic aggregator for the LNP-related traffic and the conversion of the Petitioner's  
21 existing connections with Qwest from one-way toll trunks to 2-way toll trunks. The  
22 Petitioners currently do not use Qwest as a traffic aggregator and, as admitted by

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<sup>8</sup> FCC CC Docket 95-116 dated November 10, 2003 §19

<sup>9</sup> Testimony of Ron Williams on behalf of Western Wireless, pg 22, lines 20-21

<sup>10</sup> Testimony of Ron Williams on behalf of Western Wireless, pg 21, lines 19-20

1 WWC, there is no requirement that they do so. Further, the use of Qwest as an ag-  
2 gregator has not been acceptable to the Petitioners for a number of reasons such as  
3 the ongoing disagreements with Qwest on the issue of "Phantom Traffic" on the  
4 Qwest terminating facilities and other service issues. The use of these Qwest facili-  
5 ties for LNP traffic could exacerbate the "Phantom Traffic" and other ongoing ser-  
6 vice issues with Qwest. In addition, transit traffic rates and terms and conditions  
7 are not governed by the interconnection rules and regulations. As a result, there is  
8 no basis to accept the transport scenario reflected in WWC's cost exhibit as a valid  
9 reflection of transport costs.

10 **Q: Does this conclude your rebuttal testimony?**

11 **A:** Yes. I reserve the opportunity to revise or modify this pre-filed rebuttal testimony  
12 at or before the hearing if I receive additional information pertaining to the issues I  
13 presented herein.



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Richard Helsper  
Glover, Helsper & Rasmussen  
100 22<sup>nd</sup> Ave., #200  
Brookings, SD 57006

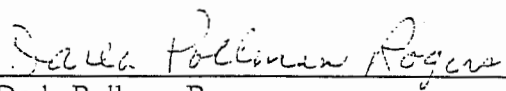
Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

James Cremer  
Bantz, Gosch & Cremer  
P.O. Box 970  
Aberdeen, SD 57402

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Jeffrey Larson  
Larson & Nipe  
P.O. Box 277  
Woonsocket, SD 57385

Dated this fourteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

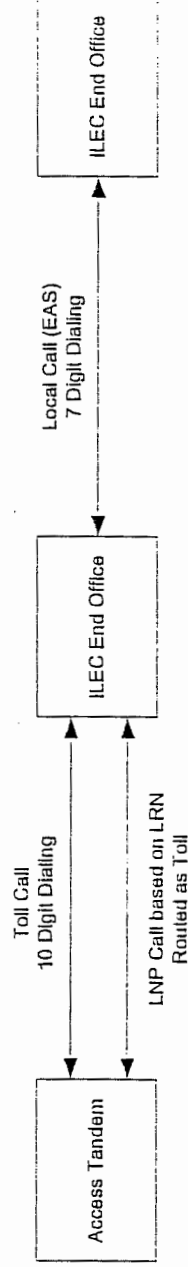
**DeWITTE REBUTTAL EXHIBIT 1**

## Local and Toll Call Dialing Plans

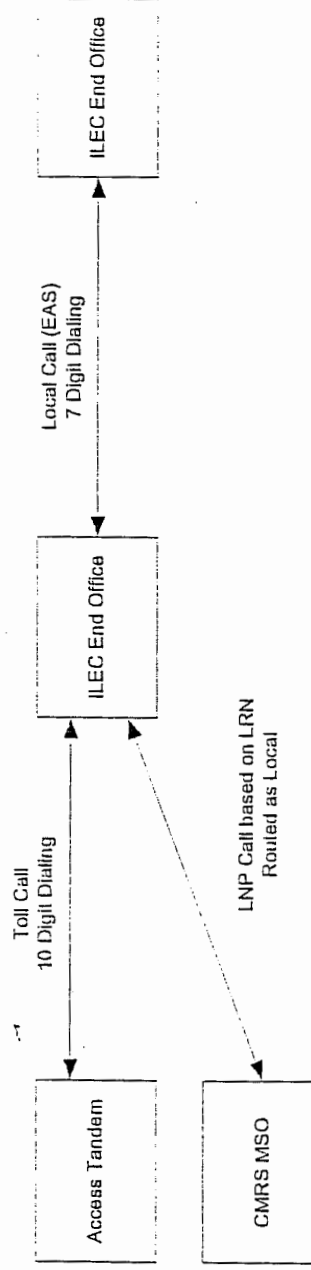
### Today - Non LNP Routing



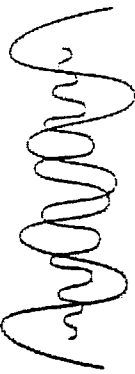
### LNP Routing without Direct Connections



### LNP Routing with Direct Connections



DeWITTE REBUTTAL EXHIBIT 2



SDN COMMUNICATIONS

antage Point Solutions, Inc.

Confidential & Proprietary

TRANSPORT

Location A	Location Z	Circuit Type	Term	Local Loop A	V & H Mileage	IXC	Local Loop Z	Total Monthly Rec	Install
Woonsocket, SD	SDN	DS-1	60 Month	\$178.63	85	\$836.40	\$98.00	\$1,113.03	\$687.00
Groton, SD	SDN	DS-1	60 Month	\$174.97	148	\$1,456.32	\$98.00	\$1,729.29	\$673.10
Highmore, SD	SDN	DS-1	60 Month	\$178.63	151	\$1,485.84	\$98.00	\$1,762.47	\$687.00
Clear Lake, SD	SDN	DS-1	60 Month	\$178.63	83	\$816.72	\$98.00	\$1,093.35	\$687.00
Stockholm, SD	SDN	DS-1	60 Month	\$178.63	107	\$1,052.88	\$98.00	\$1,329.51	\$687.00
Brookings, SD	SDN	DS-1	60 Month	\$178.63	53	\$521.52	\$98.00	\$798.15	\$687.00
Bison, SD	SDN	DS-1	60 Month	\$178.63	314	\$3,089.76	\$98.00	\$3,366.39	\$687.00

DeWITTE REBUTTAL EXHIBIT 3

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# 8

TC 04-025

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DeWITTE REBUTTAL EXHIBIT 4



**John De Witte**

**From:** Tom Helland [tom.helland@l-s.com]  
**Sent:** Wednesday, June 02, 2004 9:51 AM  
**To:** John De Witte  
**Subject:** Re: Marketing Program Development Costs

John,

Yes, those "ballpark" figures are accurate. Some of the variables would include: the amount of copywriting, photography needs, and how extensive revisions to the original work would be. I hope this is helpful.

Thanks,  
Tom Helland

John De Witte wrote:

Hi Tom,

It was great to speak with you this afternoon. I wanted to verify the numbers that we discussed this afternoon concerning the development of a marketing program that a rural Independent Local Exchange Carrier (ILEC) would utilize to explain the end user fees for Local Number Portability (LNP). While I understand that L-S has no position (for or against) this issue, if a marketing campaign were to be developed to explain any similar issue, the costs to develop a marketing campaign would likely be similar. I was wondering if you could verify that these estimated costs are in the ballpark for the development of a marketing campaign:

Development of the marketing program, including color scheme, concept, copyright, art direction (minimal photography), and final production  
Range: \$5,000 - \$10,000 depending upon art requirements

Printing Costs

8x11 Color Glossy – approximately \$800/1000 pieces

Color Postcard – approximately \$800/1000 pieces

There may be applicable discounts for higher volumes of printed media.

These estimates do not include any radio or television voice work, direction, or production. In addition, these estimates do not include any setup for newsprint media. If other marketing services (voice services, brochures, etc.) are required, additional expenses would likely apply.

Please verify that these Marketing Program Development costs are reasonable. Thanks.

**John M. De Witte, PE**  
**Vice President of Engineering**  
**Vantage Point Solutions, Inc.**

1801 N. Main Street  
Mitchell, SD 57310  
(605) 995-1742 - Direct  
(605) 995-1778 - Fax  
(605) 999-9943 - Cell  
[www.vantagepnt.com](http://www.vantagepnt.com)

6/10/2004

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION FOR LOCAL NUMBER	)	
PORTABILITY SUSPENSION OR MODIFICATION	)	
ON BEHALF OF		
BROOKINGS MUNICIPAL UTILITIES	)	
d/b/a SWIFTEL COMMUNICATIONS	)	Docket No. TC04-047
INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.	)	Docket No. TC04-054
JAMES VALLEY COOPERATIVE TELEPHONE COMPANY	)	Docket No. TC04-077
SANTEL COMMUNICATIONS	)	Docket No. TC04-038
STOCKHOLM-STRANDBURG TELEPHONE COMPANY	)	Docket No. TC04-062
VENTURE COMMUNICATIONS COOPERATIVE	)	Docket No. TC04-060
WEST RIVER COOPERATIVE TELEPHONE COMPANY	)	Docket No. TC04-061

**SUPPLEMENTARY REBUTTAL TESTIMONY OF  
JOHN DE WITTE**



**I. INTRODUCTION**

**Q: What is your name?**

A: My name is John M. De Witte.

**Q: Are you the same John M. De Witte that filed direct pre-filed testimony and pre-filed rebuttal testimony in this proceeding?**

A: Yes.

**Q: What is the purpose of your supplementary rebuttal testimony?**

A: To revise some of the cost figures appearing in my rebuttal testimony specifically relating to Exhibit 3A, Exhibit 3B, and Exhibit 3C. These revisions are due to clerical errors and errors in the Exhibit's spreadsheet formulas.

**Q: What are the corrections?**

A: The corrections were made to all three (3) Exhibits (3A, 3B, and 3C) as filed with my Rebuttal Testimony. The revisions are highlighted on the Exhibits and are detailed as follows:

Swiftel Communications

Swiftel Communications currently has one (1) existing Type 2B DS1 connection between the wireline DMS-100 and Sprint PCS (a CMRS carrier). The original transport estimates were calculated based on four (4) CMRS carriers. The original non-recurring and recurring cost estimates for the rebuttal exhibits were calculated as follows:

Non-Recurring Transport POI Estimate

1 (4 CMRS Carriers)\*(\$5,000 per Type 2B DS1) = \$20,000 non-recurring Transport  
2 POI Estimate. This estimate has been revised to reflect the reduction in costs due to  
3 this existing connection. The revised cost estimate is (3 CMRS Carriers)\*(\$5,000  
4 per Type 2B DS1) = \$15,000 non-recurring Transport POI Estimate.

5 Recurring Transport POI Estimate

6 (4 CMRS Carriers)\*(\$798.15 per month per Type 2B DS1) = \$3,193 recurring  
7 Transport POI Estimate. The formula contained a typographical error for the  
8 recurring estimate per Type 2B DS1. This estimate should have been (3 CMRS  
9 Carriers)\*(\$798.15 per month per Type 2B DS1, which was estimated as \$800 per  
10 month in my direct and rebuttal testimony), plus \$400 per month for the Type 2B  
11 DS1 connection to Sprint PCS at Brookings, = \$2,800 per month, as reflected in the  
12 direct and rebuttal testimony. This estimate has been revised to reflect the  
13 reduction in costs due to the existing connection to Sprint PCS. The revised cost  
14 estimate is (3 CMRS Carriers)\*(\$798.15 per month per Type 2B DS1) = \$2,394 per  
15 month recurring Transport POI Estimate. The Exhibits have been updated to reflect  
16 these revisions.

17 Interstate Telecommunications Cooperative

18 The non-recurring Administrative cost estimate reflected \$8,000 in the original cost  
19 exhibits filed with the direct and rebuttal testimony. This is a typographical error  
20 and should be estimated as \$5,000 as indicated in the text filed with my direct  
21 testimony. In addition, ITC currently has four (4) existing Type 2B DS1  
22 connections. Three (3) of these connections are with Western Wireless (Brookings.

1 Clark, and Webster) and one (1) of these connections is with Verizon Wireless  
2 (Brookings). The original transport estimates were calculated based on six (6)  
3 CMRS carriers. The original non-recurring and recurring cost estimates for the  
4 rebuttal Exhibits were calculated as follows:

5 Non-Recurring Transport POI Estimate

6  $(6 \text{ CMRS Carriers}) * (24 \text{ Exchanges}) * (\$5,000 \text{ per Type 2B DS1}) = \$720,000 \text{ Non-}$   
7  $\text{Recurring Transport POI Estimate. The formula contained a typographical error for}$   
8  $\text{the non-recurring estimate per Type 2B DS1. This estimate should have been}$   
9  $\$4,000. \text{ Using this corrected estimate, the Exhibit should have reflected } (6 \text{ CMRS}$   
10  $\text{Carriers}) * (24 \text{ Exchanges}) * (\$4,000 \text{ per Type 2B DS1}) = \$576,000 \text{ Non-Recurring}$   
11  $\text{Transport POI Estimate. This non-recurring Transport POI estimate has been}$   
12  $\text{revised to reflect the reduction in costs due to the existing Type 2B connections.}$   
13  $\text{The revised cost estimate is } [(6 \text{ CMRS Carriers}) * (24 \text{ Exchanges}) * (\$4,000 \text{ per Type}$   
14  $\text{2B DS1}) - (4 \text{ existing Type 2B connections}) * (\$4,000 \text{ per Type 2B DS1})] = \$560,000$   
15  $\text{Recurring Transport POI Estimate.}$

16  $(6 \text{ CMRS Carriers}) * (24 \text{ Exchanges}) * (\$1,093.35 \text{ per month per Type 2B DS1}) =$   
17  $\$157,442 \text{ Recurring Transport POI Estimate. This estimate has been revised to}$   
18  $\text{reflect the reduction in costs due to the existing connections. The revised cost}$   
19  $\text{estimate is } [(6 \text{ CMRS Carriers}) * (24 \text{ Exchanges}) * (\$1,093.35 \text{ per month per Type 2B}$   
20  $\text{DS1}) - (4 \text{ existing Type 2B connections}) * (\$1,093.35 \text{ per month per Type 2B DS1})] =$   
21  $\$153.069 \text{ per month Recurring Transport POI Estimate. The Exhibits have been}$   
22  $\text{updated to reflect these revisions.}$

1       James Valley Telecommunications

2       Non-Recurring Transport POI Estimate

3       (5 CMRS Carriers)\*(13 Exchanges)\*(\$5,000 per Type 2B DS1) = \$325,000 Non-  
4       Recurring Transport POI Estimate. The formula contained a typographical error for  
5       the non-recurring estimate per Type 2B DS1. This estimate should have been  
6       \$4,000 as indicated in the text filed with my direct testimony. Using this corrected  
7       estimate, the Exhibit should have reflected (5 CMRS Carriers)\*(13  
8       Exchanges)\*(\$4,000 per Type 2B DS1) = \$260,000 Non-Recurring Transport POI  
9       Estimate.

10      Venture Communications Cooperative

11      The non-recurring LNP Software cost estimate reflected \$68,700 in the original cost  
12      exhibits filed with the direct and rebuttal testimony. This figure is based on Nortel  
13      Network's software program price of \$4.00 per equipped line as a software Right-  
14      To-Use (RTU) fee for DMS-10 networks. The cost estimate was based on 17,175  
15      equipped lines. The Sisseton DMS-10 currently has the LNP feature bit activated,  
16      therefore no additional software licensing is required for this office. The Sisseton  
17      exchange has 3,200 equipped lines. If these lines are omitted from the calculation,  
18      the revised quantity of equipped lines is 13,975. The revised cost estimate for the  
19      LNP Software features is calculated as (13,975 equipped lines)\*(\$4 per equipped  
20      line) = \$55,900. In addition, Venture currently has one (1) existing Type 2B DS1  
21      connection with Western Wireless (Sisseton). The original transport estimates were

1       calculated based on five (5) CMRS carriers. The original non-recurring and  
2       recurring cost estimates for the rebuttal Exhibits were calculated as follows:

3       Non-Recurring Transport POI Estimate

4        $(5 \text{ CMRS Carriers}) * (25 \text{ Exchanges}) * (\$5,000 \text{ per Type 2B DS1}) = \$625,000$  Non-

5       Recurring Transport POI Estimate. The formula contained a typographical error for

6       the non-recurring estimate per Type 2B DS1. This estimate should have been

7       \$4,000, as indicated in the text filed with my direct testimony. The Exhibit filed

8       with my direct testimony also contained a typographical error and displayed the

9       amount as \$530,250. Using this corrected estimate, the Exhibits should have

10       reflected  $(5 \text{ CMRS Carriers}) * (25 \text{ Exchanges}) * (\$4,000 \text{ per Type 2B DS1}) =$

11       \$500,000 Non-Recurring Transport POI Estimate. This non-recurring Transport

12       POI estimate has been revised to reflect the reduction in costs due to the existing

13       Type 2B connections. The revised cost estimate is  $[(5 \text{ CMRS Carriers}) * (25$

14       Exchanges) \*  $(\$4,000 \text{ per Type 2B DS1}) - (1 \text{ existing Type 2B connections}) * (\$4,000$

15       per Type 2B DS1)] = \$496,000 Recurring Transport POI Estimate.

16        $(5 \text{ CMRS Carriers}) * (25 \text{ Exchanges}) * (\$1,762.47 \text{ per month per Type 2B DS1}) =$

17       \$220,309 Recurring Transport POI Estimate. This estimate has been revised to

18       reflect the reduction in costs due to the existing connections. The revised cost

19       estimate is  $[(5 \text{ CMRS Carriers}) * (25 \text{ Exchanges}) * (\$1,762.47 \text{ per month per Type 2B}$

20       DS1) -  $(1 \text{ existing Type 2B connections}) * (\$1,762.47 \text{ per month per Type 2B DS1})] =$

21       \$218,546 per month Recurring Transport POI Estimate. The Exhibits have been

22       updated to reflect these revisions.

1    **Q: Does this conclude your supplemental rebuttal testimony?**

2    A: Yes. I reserve the opportunity to revise or modify this pre-filed supplemental  
3       rebuttal testimony at or before the hearing if I receive additional information  
4       pertaining to the issues I presented herein.



CONFIDENTIAL

# 9

TC 04-025

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF INTERSTATE TELECOMMUNI-  
CATIONS COOPERATIVE, INC. FOR  
SUSPENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. \_\_\_\_

**PETITION**

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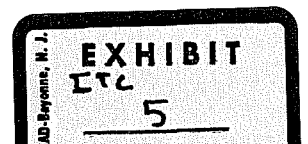
**I. INTRODUCTION**

Pursuant to Section 251(f)(2) of the Communications Act of 1934, as amended (the Act), and South Dakota Codified Laws SDCL § 49-31-80, Interstate Telecommunications Cooperative, Inc. (ITC or Petitioner) hereby respectfully requests that the Public Utilities Commission of the State of South Dakota (Commission) grant a suspension or modification of Section 251(b)(2) of the Act. ITC also requests an immediate suspension of Section 251(b)(2) pending this Commission's consideration of the suspension request until six (6) months following the Commission's decision.

Section 251(b)(2) states that all local exchange carriers (LECs) have "[t]he duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."<sup>1</sup> The Federal Communications Commission (FCC) established rules to implement local number portability (LNP) by wireline carriers.<sup>2</sup> Pursuant to those rules, portability between wireline carriers was limited to the LEC rate center. In a Memorandum Opinion and Order and Further Notice of Proposed Rule-

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<sup>1</sup> 47 U.S.C. §251(b)(2).



making released on November 10, 2003,<sup>3</sup> the FCC clarified the LECs' obligations to provide LNP to wireless carriers and found that LECs must implement LNP to allow porting to wireless carriers even when the wireless carrier does not have a point of interconnection or telephone numbers in the LEC's affected rate center. The FCC did not require porting from a wireless carrier to a wireline carrier, however, when there is a "mismatch" in rate centers. Rather, the FCC instituted a rulemaking to examine how such porting can be accomplished.

Petitioner requests the Commission grant a suspension of the Petitioner's individual obligations to provide "number portability," as that term is defined by applicable law.<sup>4</sup> As demonstrated herein, the statutory criteria for suspension are met. A grant of this Petition will permit the Commission to ensure that the public interest, convenience and necessity are not undermined in the provision of number portability. Further, grant of the Petition will allow clarification or resolution of the significant issues raised by intermodal portability<sup>5</sup> before LECs are forced to expend considerable resources in an attempt to adhere to vague portability rules<sup>6</sup>.

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<sup>3</sup> Telephone Number Portability, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, FCC 03-284 (rel. November 10, 2003) (*Order* or FNPRM).

<sup>4</sup> The Communications Act of 1934, as amended (the "Act") defines number portability as "the ability of users of telecommunication services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. §153 (30) (emphasis added). See also 47 C.F.R. § 52.21(p) (defining "service provider portability" identically to "number portability").

<sup>5</sup> The Petitioner utilizes the terms "wireline-to-wireless portability" and "intermodal portability" synonymously.

<sup>6</sup> The Petitioner is a cooperative telephone company with a core belief that all telecommunications investments made by the cooperative should demonstrate value for its members. As described in this petition, the high cost of Intermodal LNP does not provide a benefit for its members since the subscribers that choose to have their numbers ported to a wireless carrier leave the cooperative. As such, the Petitioner is of the opinion that the national intermodal objectives of the Federal Communications Commission (FCC) likely do not

## II. ARSD § 20:10:32:39 REQUIREMENTS

The following information is provided in accordance with Section 20:10:32:39 of the Commission's rules.

(1) The applicant is Interstate Telecommunications Cooperative, Inc., 312 Fourth Street West, Clear Lake, SD 57226-0920, (605) 874-2181. The designated contacts are:

Jerry Heiberger, General Manager;

Darla Pollman-Rogers  
Riter, Rogers, Wattier & Brown, LLP  
319 South Coreau Street  
P.O. Box 280  
Pierre, SD 57501-0280  
(605) 224-5825; and

Benjamin H. Dickens, Jr.  
Blooston, Mordkofsky, Dickens, Duffy & Prendergast  
2120 L Street, NW, Suite 300  
Washington, DC 20037  
(202) 659-0830

(2) As of 2003, ITC had 16,212 subscriber lines nationwide.

(3) ITC seeks to suspend the local number portability obligations in 47 U.S.C. §251(b)(2) of the Act.

(4) ITC requests suspension of the LNP requirement until there is evidence of demand for LNP and the per line cost of LNP is reduced. At a minimum, ITC requests suspension until six (6) months following the FCC's full and final disposition of the issues associated with the routing of calls between wireline and wireless providers in the Sprint Petition<sup>7</sup> and the porting interval and wireless to wireline porting in its pending

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meet the public interest objectives of the Commission in the unique and sparsely populated rural telecommunications environment of South Dakota.

<sup>7</sup> *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002 ("Sprint Petition").

FNPRM, at which time ITC may need to seek further Section 251(f)(2) relief based upon the economic impact of these decisions.

ITC also requests immediate temporary suspension of the 251(b)(2) requirement pending this Commission's consideration of this request until six (6) months following this Commission's final decision.

(5) ITC requests that the suspension of Section 251(b)(2) be effective no later than May 24, 2004. ITC requests that the temporary suspension of Section 251(b)(2) be effective immediately and in any event, no later than March 23, 2004.

(6) The information supporting this petition is contained on pages 6 through 16 of this Petition.

(7) ITC requests that the Commission grant a temporary stay or suspension of the local number portability requirements in Section 251(b)(2) of the Act.

### **III. SUMMARY**

This Petition requests that the Commission exercise its authority to address the effect of LNP on the Petitioner's cooperative members. As a cooperative telecommunications company, any negative financial impacts from porting obligations flow directly back to ITC's members. Commission action also is necessary to ensure that the members of the Petitioner are not forced to bear unnecessary and potentially wasted costs of implementing LNP to CMRS providers and Midcontinent Communications. As demonstrated herein and in Exhibits 1 and 2 (incorporated herein by reference), the Petitioner will experience substantial costs to equip its switches with porting capability. Thereafter, there are significant ongoing administrative costs. Further, as demonstrated herein, installation of LNP does not resolve the problems that will be encountered by the Peti-

tioner if it is required to implement intermodal LNP where the wireless carrier does not have a point of interconnection or numbers in the affected rate center. Unresolved implementation problems render the provision of LNP unduly economically burdensome and technically infeasible. It also will have a significant adverse economic impact on users of the Petitioner's telecommunications services. Accordingly, for the reasons provided herein, the Petitioner respectfully requests that the Commission grant it the suspension of any obligation to provide LNP.

#### **IV. BACKGROUND**

##### **A. The Petitioner is Eligible to Seek this Relief**

The Petitioner is a rural telephone company as defined by the Act and provides telecommunications services within South Dakota. Petitioner provides local exchange, exchange access and other telecommunications services to 14,529 access lines within its South Dakota service area. This service area encompasses sparsely populated localities, with only 2.43 access lines per square mile. A list of ITC's switches for which a suspension of LNP is requested is attached as Exhibit 3.

The Petitioner satisfies the criteria set forth in Section 251(f)(2), which provides in pertinent part, that "a local exchange carrier with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a state commission for a suspension or modification"<sup>8</sup> of the number portability requirements. Pursuant to Section 251(f)(2), the Commission shall grant a petition for suspension or modification to the extent that, and for such duration as, the Commission determines that such suspension or modification:

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<sup>8</sup> 47 U.S.C. § 251(f)(2)

(A) is necessary:

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

(B) is consistent with the public interest, convenience, and necessity.<sup>9</sup>

Section 251(f)(2) of the Act requires the Commission to act on this application within 180 days after receipt. Pending such action, the Commission “may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.” 47 U.S.C. § 251(f)(2) and SDCL 49-31-80.

ITC received requests for LNP from Midcontinent Communications (Midco), a wireline carrier, and from Western Wireless Corporation (Western Wireless), a wireless carrier. Midco has requested LNP in the Webster exchange, which is served by the Webster switch. Western Wireless has requested LNP in all of ITC’s twenty-six (26)<sup>10</sup> switches by May 24, 2004. ITC also has been contacted by Verizon Wireless regarding LNP. In addition, the Petitioner is aware that other wireless operators offer services in portions of Petitioner’s service area. The petitioner has included the potential interconnection requirements for these carriers in its cost estimates.<sup>11</sup>

Petitioner only has existing direct points of connection with wireless carriers at three (3) of its twenty-four (24) South Dakota exchanges. Petitioner has direct intercon-

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<sup>9</sup> 47 U.S.C. § 251(f)(2)

<sup>10</sup> The Petitioner has twenty-six (26) total exchanges. Twenty-four (24) of these exchanges are in South Dakota. Two (2) of the exchanges are in Minnesota.

<sup>11</sup> Numerous upgrades will be required to support LNP. These upgrades in software and operational procedures will be required in order to meet the current LNP requirements, which will benefit only those sub-

nections with Verizon Wireless and Western Wireless at its Brookings Rural switch. It also has direct interconnections with Western Wireless at its Clark and Webster switches. Unless subscribers in other exchanges have subscribed to an optional EAS calling plan, the existing direct connections provide interconnection to the Petitioner's access lines in that rate center only. These direct connections provide switch-to-switch interconnections between the petitioner's switch and a specific CMRS switch, as defined by Telcordia.<sup>12</sup> Each CMRS provider would need similar direct interconnections to the Petitioner's switches.

Regarding the twenty-one (21) South Dakota exchanges with no direct interconnection to wireless carriers, if there are no common facilities or interexchange agreements, only conventional, switched toll routes remain; but no translating, routing, or rating rules have been established for this scenario. Some of the questions that need to be addressed in order to evaluate the cost and impact on consumers of LNP include: (1) where and how should the Petitioner interconnect with the wireless carriers, (2) is the point of interconnection within the LATA, and (3) how will the Petitioner be able to maintain the original rate center designation and rating when the number is ported to a point of interconnection that is located outside the original rate center. The uncertainty surrounding these and other questions are likely to cause significant customer confusion, resulting in increased costs for addressing customer service inquiries which adds to the overall cost impact of LNP implementation.

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scribers that choose to leave the Cooperative, while encumbering the entire remaining cooperative membership with the burden of funding the porting benefit.

<sup>12</sup> See Telcordia Notes on the Networks, Wireless Networks, SR-2275, Issue 4, Figure 16-9. WSP-to-LEC Switched Interconnection for the Type 2A or Type 2B with SS7 Interfaces.



## **B. Transporting to Outside Carrier Networks Should Not Be Compelled (Without Compensation)**

One of the significant operational challenges to the *Order* is what appears to be an obligation on local exchange carriers to port a wireline number to a wireless carrier that allows the mobile subscriber to use the number outside the boundaries of the original rate center.

Section 251(2)(b) of the Act requires all LECs to “provide to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission”.<sup>13</sup> The Act defines number portability as “the ability of users of telecommunication services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>14</sup> In promulgating its number portability rules, the FCC cited this definition and determined that the Act requires *service provider portability but not location portability*.<sup>15</sup> The FCC defined “service provider portability” as “the ability of end users to retain the same telephone numbers (that is, the same NPA and NXX codes and the same line numbers) when changing from one service provider to another.”<sup>16</sup> In contrast, “location portability” is “the ability of end users to retain the same telephone numbers *when moving* from one location to another, either within the area served by the same central office or between areas served by central offices.”<sup>17</sup>

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<sup>13</sup> 47 U.S.C. § 251(b)(2)

<sup>14</sup> 47 U.S.C. § 153(30) (emphasis added)

<sup>15</sup> See *In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, in CC Docket No. 95-116 (rel. July 2, 1996) 11 FCC rcd 8352, 8447 (Number Portability Decision) (emphasis added)

<sup>16</sup> *In the Matter of Telephone Number Portability, Notice of Proposed Rulemaking*, 10 FCC Rcd 12350, 12355 (1995)

<sup>17</sup> *Id.* at 12356 (emphasis added)

In its *Number Portability Decision*, the FCC determined that mandating carriers to implement geographic location portability was not in the public interest.<sup>18</sup> As part of this decision, the FCC noted its concerns regarding the significant implementation issues arising from location portability. Specifically, the FCC found that, among other reasons, imposing location portability at this time would cause consumer confusion by the loss of the geographic identity of the telephone number. As a result, members would not know whether they were making a call to a nearby location or to a distant location, and may not know whether the call would be subjected to toll charges. With the change in location, LECs' service offerings, switching, and routing or originating calls to the ported number would need to be changed. The FCC also noted that commenting parties observed that location portability would create unnecessary and burdensome costs on carriers and on directory assistance, operator, and emergency services providers.<sup>19</sup> None of these public interest considerations have changed since the FCC's *Number Portability Decision*, *supra*. Moreover, many, if not most, of these same concerns arise in connection with intermodal LNP when the wireless carrier does not have interconnection or numbers in the LEC rate center.

Further, the FCC's *Order* is the subject of legal challenges. Until the uncertainty surrounding this *Order* is resolved, the obligations of LECs are unclear, which leaves the LECs subject to potential FCC enforcement of different interpretations of the LEC's obligation to implement number portability.

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<sup>18</sup> *Number Portability Decision*, 11 FCC Rcd at 8449. The FCC also determined that it may decide to mandate implementation of geographic location portability in the future "if it would be in the public interest" and noted that carriers may provide geographic location portability "consistent with this Order" if they so choose. *Id.* at 8447. The FCC has not done so and the Petitioner is not aware of any LEC that has purposefully implemented ubiquitous geographic location portability.

<sup>19</sup> *Id.* at 8444-8445

The Commission should grant this Petition to ensure that the Petitioner's end user members do not pay for unnecessary and undesired costs associated with implementation and enforcement of uncertain requirements. It is prudent and in the public interest for the Commission to wait for the FCC and courts to resolve the outstanding issues by granting the Petitioner a suspension of the intermodal LNP requirements.

**C. The *Order* Creates an Unfair Competitive Advantage for Wireless Carriers**

Under the conditions of the *Order*, LNP will happen in only one direction (to the wireless provider). Wireless service areas often cover many ILEC rate centers, allowing wireless carriers the possibility of a port-in of any landline subscriber where they have wireless coverage. However, wireline carriers can only port-in wireless subscribers when the rate centers align, which is seldom the case in rural South Dakota.

**V. ARGUMENT**

The Act empowered the Commission with authority to balance any requests for number portability which may have potential harmful public interest consequences. While the Act imposes on all LECs obligations of interconnection, number portability, dialing parity, access to rights of way and reciprocal compensation,<sup>20</sup> Congress wisely invested the Commission with the authority to suspend or modify these obligations for LECs like ITC.

As demonstrated in Section IV.A, *supra*, the Petitioner is eligible to seek the relief requested herein from the Commission. Similarly, the Commission is authorized to grant such relief. As demonstrated below, the necessary criteria are satisfied for a Commission finding that granting this Petition is warranted.

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<sup>20</sup> See generally 47 U.S.C. § 251(b)

**A. Criteria in Section 251(f)(2) for Granting the Relief Are Met**

**1. Section 251(f)(2)(A)(i) Criteria is Met (Avoid Significant Adverse Economic Impact of Users of Telecommunications Services Generally)**

A grant of this Petition will avoid a significant adverse economic impact on Petitioner's members and users of telecommunications services generally in South Dakota. As demonstrated herein and in Exhibits 1 and 2, the costs of implementing number portability as requested by Midco and as requested by the wireless carriers, are significant, not only with respect to the deployment of the software necessary to achieve porting capability, but also with respect to ongoing data costs and administration processes, and the establishment of the proper arrangements among the affected carriers.

Exhibit 1 shows the estimated known costs to implement LNP at this time for the Webster exchange only pursuant to an Interconnection Agreement with Midco. Exhibit 2 shows the estimated known costs to implement LNP at this time for all of the Petitioner's South Dakota exchanges to support intermodal LNP in accordance with the FCC's May 24, 2004 deadline. Pursuant to the FCC's rules, certain direct costs of LNP can be recovered from end users through a monthly surcharge over a five-year period.<sup>21</sup> All remaining costs must be recovered, if at all, through the carrier's general rates and charges. It should be noted that although some of the listed costs are fairly firm, such as Service Order Administration cost, other costs, such as port test and verification costs, are dependent on unknown factors, for example, the number of customers who ultimately port their number.

Potentially, the Petitioner can expect to receive requests for Interconnection from six (6) wireless carriers (Verizon, Western Wireless, Sprint PCS, Nextel, Midwest Wire-

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<sup>21</sup> 47.C.F.R. § 52.33.

less, and RCC Wireless). All of these carriers have their wireless switching equipment in separate locations. In order to provide interconnection to these carriers, the Petitioner is including transport cost estimates from each of ITC's switches to these six (6) wireless carriers. Thus, Exhibit 2 also contains estimates for the recurring and non-recurring cost of transport, which essentially is the cost of installing direct connections to the wireless carriers. ITC has estimated these transport costs based on the existing network architecture configuration of the wireless carriers detailed above. Based on the existing configuration for these carriers, a dedicated facility is required from each ITC switch to the wireless carrier. This configuration is required to resolve the transport and routing issues caused by the implementation of LNP when the wireless carrier does not have a point of interconnection or numbers in the LEC's rate centers.

In its Order, the FCC acknowledged that LNP raised certain routing issues for rural carriers where no direct connection exists. The FCC, however, found that these issues did not need to be resolved in the LNP proceeding. Rather, the FCC indicated that they would be addressed in a pending Petition for Declaratory Ruling filed by Sprint Corporation.<sup>22</sup> This creates a difficult dilemma for LECs, like ITC, and this Commission with respect to the "public interest." Simply stated, installing direct connections will increase significantly the cost of LNP. However, without direct connections, subscribers who call a number that has been ported to a wireless carrier will incur a toll charge for that call, even though such calls previously were rated as local. This will occur because the wireless carriers' points of interconnection are outside of ITC's service territory. Therefore, calls to these carriers are routed to the subscriber's preferred interexchange carrier, unless

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<sup>22</sup> *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002 ("*Sprint Petition*").

the customer has included such calls in an optional extended area service (EAS) arrangement. Calls that are part of an optional EAS arrangement are routed through the appropriate EAS trunk.

With regard to the direct connections to the wireless carriers described in the preceding section, the Petitioner does not believe that the construction of these facilities is cost-justified based on the potential traffic between ITC and the wireless carrier and the potential for ported subscribers. If the facilities were feasible, it is likely that the wireless carriers would have implemented them already as they have in other areas of the country. Based on the projected traffic levels, it appears that the direct facilities between ITC and the wireless carriers required for LNP would be highly under-utilized and very inefficient.

It should be noted that Western Wireless has filed a petition at the FCC arguing that rate-of-return regulation should be eliminated for rural carriers like ITC, in part, because they are inefficient.<sup>23</sup> It would be ironic if ITC is forced to prop up Western Wireless and other wireless carriers by subsidizing facilities that these carriers have refused to pay for themselves.

ITC estimates that in order to implement LNP it will have recurring and non-recurring costs as set forth in Exhibit 2 attached hereto and incorporated herein by reference. As noted, certain direct recurring and non-recurring costs of LNP can be recovered from end users through a monthly surcharge over a period of five years and the remaining costs must be recovered, if at all, through the carrier's general rates and charges. In an attempt to approximate the difference in charges to end users during the five-year period

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<sup>23</sup> See, Western Wireless Corporation *Petition for Rulemaking to Eliminate Rate-of-Return Regulation of Incumbent Local Exchange Carriers*, RM 10822, at 18 and 20, filed October 30, 2003.

and beyond, ITC's per-line cost estimate is based on recovering all non-recurring costs over five years. This may not reflect the actual LNP surcharge allowed by the FCC, however, because some of the non-recurring costs may not be recoverable through the surcharge. With this caveat in mind, ITC estimates that the cost of LNP for the Webster exchange only, as requested by Midco and applied to subscribers served by the Webster exchange, would increase line charges by \$3.00 per line per month for five years and \$2.00 per line per month thereafter.

ITC estimates that the cost of LNP for all South Dakota exchanges, including the estimated direct transport charges to all six (6) projected wireless service providers would increase line charges by \$13.00 per line per month for five years and \$12.00 per line per month thereafter. Should the Commission find that ITC should implement LNP for both Midco (the Webster exchange only) and the wireless carriers, there would be some overlap in the projected implementation costs identified in Exhibits 1 and 2, resulting in an estimated line charge increase of \$13.00 per line per month for five years and \$12.00 per line per month thereafter.

As demonstrated, the cost of transport adds significantly to the cost of LNP. Therefore, the transport issue must be resolved to determine the full cost of LNP and the full adverse economic impact on users of telecommunications in terms of unexpected toll charges. As stated, the FCC has indicated that it will address this issue when it considers the routing of calls between wireline and wireless carriers in the *Sprint Petition* proceeding. Therefore, at a minimum, Petitioner should not be required to provide LNP until six months after the FCC releases its decision on the *Sprint Petition*. This would allow Petitioner to assess the cost impact of LNP in light of the FCC's decision and either imple-

ment LNP or petition this Commission for a further suspension or modification of the LNP requirement.

The implementation costs in Exhibit 2 could increase significantly depending on the resolution of a number of issues at the FCC. For example, the FCC is examining whether the current four-day porting interval for wireline carriers should be shortened, perhaps to match the wireless porting interval of 2.5 hours. A shorter porting interval will significantly increase the cost of LNP because more systems would have to be automated and more personnel would have to be hired to take and implement porting requests.

The LNP costs in Exhibit 2 also do not include the cost of implementing wireless to wireline porting, which is under consideration by the FCC. In this regard, the FCC has asked for comment on whether wireline carriers should be required to absorb the cost of providing a customer with a ported wireless number with the same local calling area as the customer received from the wireless carrier and whether LECs should be required to provide LNP through foreign exchange (FX) and virtual FX service.<sup>24</sup> These proposals also would increase the cost of LNP; however, it is not clear to what extent.

**2. Section 251(f)(2)(A)(ii) Criteria is Met  
(Avoid Imposing a Requirement that is Unduly Economically Burdensome)**

Further, a grant of a suspension of the LNP rules would avoid imposing a requirement that is unduly economically burdensome to the Petitioner and its members. As a small telephone company, the Petitioner has a limited customer base over which to

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<sup>24</sup> It is not clear what “virtual FX” service would entail as the FCC did not define it and Petitioner offers no such service.



spread its costs.<sup>25</sup> As noted in Exhibit 2, the costs associated with implementing LNP capability and the on-going administrative expenses are significant.

The assessment of a new LNP surcharge on end users or an increase in local rates would make ITC's service offering less competitive with the services provided by other carriers, such as wireless carriers. Wireless carriers already enjoy a number of competitive advantages over wireline carriers. For example, because of their FCC licensed service areas, wireless carriers have larger local calling areas, larger service territories and more potential customers to absorb the cost of LNP. By increasing the cost of service, LNP would make wireline services even less competitive with wireless services.

In addition, if the total cost of LNP is assigned to ITC's subscribers through a surcharge and local rate increases, some segment of ITC's subscribers may discontinue service or decrease the number of lines to which they subscribe. The resulting reduction in line count would increase further the per-subscriber cost of LNP, which, in turn, could lead to more rate increases followed by additional losses in access lines.

Moreover, pursuant to the FCC's Order, although wireline carriers have been ordered to port numbers to wireless carriers when the wireless carrier has no point of interconnection or numbers in the LEC's rate centers, the FCC does not require wireless carriers to port numbers under the same circumstances as wireline carriers, even where the wireline carrier may choose to accept such ports. Thus, the current intermodal porting requirement is a one-way requirement – ITC can lose customers through porting to the wireless carriers, but it cannot gain customers from them.

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<sup>25</sup> See *id.* at 262 (The per line cost of implementing the technology for number pooling, which is the same technology that is used to implement number portability, would "be significantly higher for small and rural carriers operating outside of the largest 100 MSAs than for carriers operating inside urban and metropolitan areas because of these carriers' limited customer bases.")

It also is unduly economically burdensome to require ITC to implement LNP when a number of implementation issues are not resolved. It would be more efficient and less costly to implement LNP only once, after the LNP parameters are more certain, rather than require carriers to implement LNP when important issues are unresolved (such as the specifics of the direct trunk connection required for intermodal porting) or could be changed (such as whether the porting interval will be reduced).

**3. Section 251(f)(2)(A)(iii) Criteria is Met  
(Avoid Imposing a Requirement that is Technically Infeasible)**

A grant of the Petition with respect to intermodal portability would avoid imposing a requirement that is technically infeasible, at least within the timeframe of the Order. While porting equipment can be installed, implementation of intermodal LNP cannot be achieved absent the establishment of terms and conditions with the CMRS providers for the twenty-one (21) South Dakota exchanges of the Petitioner for which there is no direct interconnection.

**B. Section 251(f)(2)(B) Criteria is Met  
(Consistent with Public Interest, Convenience, and Necessity)**

Finally, a grant of this Petition will serve the public interest. Section 251(f)(2)(B) provides that the Commission is to determine that the requested suspension “is consistent with the public interest, convenience and necessity.”<sup>26</sup> As an initial matter, by granting the suspension, the Commission would avoid the potential waste of resources or, at the very least, diminish the waste that would occur in the absence of the resolution of the challenges to, and the further rulemaking proceedings of, the FCC’s *Order* clarifying issues related to the porting interval and wireline-to-wireless number portability. In addi-

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<sup>26</sup> 47 U.S.C. § 251(f)(2)(B)

tion, the standard of public interest, convenience, and necessity consists of an evaluation of the benefit that consumers will receive from LNP compared to the costs of its implementation and use. Central to this evaluation is the level of demand that exists for LNP in ITC's service area.

ITC believes that the current demand for LNP is very small or non-existent. As of the date of this filing, no ITC customer has ever made an inquiry to ITC regarding LNP or a request for LNP. With respect to wireless LNP, nationwide, to date, the demand for wireless porting has been far less than expected and most ports have been from one wireless carrier to another. Wireline to wireless porting appears to be a small fraction of wireless porting in general.<sup>27</sup> According to NeuStar, 95% of wireless ports have been from one wireless carrier to another and only 5% of wireless ports were between wireline and wireless carriers.<sup>28</sup> With lack of quality and incomplete coverage of ITC's existing service area by the existing wireless carriers, ITC projects that the percentage would be even smaller than in other parts of the nation. ITC is projecting approximately two (2) intermodal ports per month.<sup>29</sup> Based on this small number of ports, the percentage of ITC access lines requiring a port to a wireless carrier is well under one (1) percent. Accordingly, there appears to be little, if any, demand for LNP and, absent such demand, no public benefit will be derived from LNP.

Even if some level of LNP demand develops in the future, the costs that would be incurred by ITC to implement and maintain LNP, which ultimately would be borne by

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<sup>27</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.

<sup>28</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p.4 (March 9, 2004).

<sup>29</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that less than 1% are intermodal.

subscribers, would not be justified to provide the benefit of number portability to a few end users. Nevertheless, all of the subscribers of the Petitioner would be adversely impacted by an increase in rates in order to accommodate any LNP requests of Midco and the CMRS providers.<sup>30</sup> The Petitioner should not expend its available resources on an investment that has so few, if any, benefits. Such resources are much better spent on the development of broadband or other network improvements that hold real advantages for all of the Petitioner's members and South Dakota as a whole. If the Petitioner is forced to implement LNP, existing capital investments for broadband implementation will be diverted from this deployment to implement LNP.

Moreover, the rating and routing issue associated with wireline to wireless portability as currently ordered by the FCC, and the resulting customer confusion, is contrary to the public interest.

Finally, if ITC must implement LNP, all carriers with EAS arrangements with ITC and their customers will be impacted because the other carriers will have to LNP dip all EAS calls. ITC currently has EAS arrangements with Venture Communications, Inc., Brookings Municipal Utilities (d/b/a Swiftel Communications), and James Valley Telecommunications. This would increase the cost of EAS between ITC and these carriers and could result in a loss of EAS options to the customer or an increase in the cost of the optional EAS service.

Accordingly, grant of the requested suspension is consistent with the public interest, convenience and necessity.

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<sup>30</sup> See also *Number Resource Decision*, 17 FCC Rcd at 262 (Imposing the cost of implementing the technology for number pooling, which is the same technology that is used to implement number portability on smaller and rural carriers, "may delay efforts to bring advanced services to rural subscribers.")

**V. REQUEST FOR IMMEDIATE SUSPENSION PENDING  
CONSIDERATION OF THIS PETITION IS WARRANTED  
AND NECESSARY TO SERVE THE PUBLIC INTEREST**

Section 251(f)(2) provides that the Commission is to act on this Petition within 180 days.<sup>31</sup> Pending such action, the Commission “may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.”<sup>32</sup> ITC requests immediate temporary suspension of the 251(b)(2) requirement pending this Commission’s consideration of this request until six (6) months following this Commission’s decision. Suspension of enforcement would allow rational public policy decision-making without a “rush-to-judgment” based on the impending May 24, 2004, deadline.<sup>33</sup> Moreover, without an immediate suspension, Petitioner may be forced to start expending capital and personnel resources toward meeting the impending May 24, 2004, deadline. All such efforts may ultimately be wasted effort depending on the Commission’s decision. As the May 24, 2004 implementation deadline for inter-modal LNP draws near, the Petitioner is already beginning to feel the financial impact of LNP deployment. The resources that the petitioner is expending to plan for the implementation of LNP are being diverted from future broadband implementation capital investments. Such investments in broadband network architecture benefit all of the cooperative members, the economies of the Petitioner’s service area, and South Dakota as a whole. The implementation of LNP does not appear to serve the public interest. In addi-

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<sup>31</sup> 47 U.S.C. § 251(f)(2)

<sup>32</sup> *Id.*

<sup>33</sup> The Nebraska Public Service Commission granted a Motion for Interim Relief *In the Matter of the Application of Great Plains Communications, Inc., Blair, for Suspension or Modification of the Federal Communications Commission Requirement to Implement Wireline-Wireless Number Portability Pursuant to 47 U.S.C. § 251(f)(2)*, Docket C-3096. The Hearing Officer found that “the 180-day timeframe in which the Commission must render its decision, and because of the number of applications filed with the Commission seeking suspension under 47 U.S.C. § 251(f)(2), it would be difficult for the Commission to hold an evi-

tion, the requirement to implement LNP by May 24, 2004 without addressing the technical and interconnection issues is not a wise use of the Petitioner's available capital.

## VI. CONCLUSION

As demonstrated, ITC has met the criteria set forth in 47 U.S.C. § 251(f)(2)(A) and the suspension requested in this proceeding is consistent with the public interest, convenience and necessity requirement set forth in 47 U.S.C. § 251(f)(2)(B). Accordingly, the Commission must grant the petition for suspension or modification.

ITC requests suspension of the LNP requirement until there is evidence of demand for LNP and the per line cost of LNP is reduced. At a minimum, suspension should be granted until six (6) months following the FCC's full and final disposition of the issues associated with the porting interval and wireless to wireline LNP in the Further Notice of Proposed Rulemaking and the routing of calls between wireline and wireless providers in the *Sprint Petition*, at which time ITC may need to seek further Section 251(f)(2) relief based upon the economic impact of these decisions.

ITC also requests an immediate temporary suspension, pending this Commission's consideration of this request, until six (6) months following this Commission's decision, as discussed herein.

WHEREFORE, ITC respectfully requests the Commission to:

(A) Issue an interim order that suspends any obligation that may exist for ITC to provide LNP until six (6) months after entry of a final order herein;

(B) Issue a final order that grants a permanent suspension of ITC's obligation to implement LNP until the conditions are met as described herein; and

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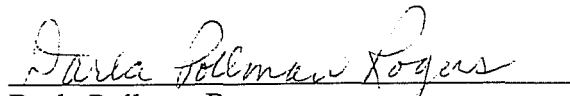
dentiary hearing and make its ruling on this and every application for suspension or modification of the LNP requirement filed with the Commission prior to the May 24, 2004, deadline."

(C) Grant ITC such other and further relief that may be proper.

Accordingly, the Petitioner respectfully requests that the Commission grant this Petition.

Dated this twelfth day of March, 2004.

INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

A handwritten signature in cursive script, reading "Darla Pollman Rogers", is written over a horizontal line.

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Riter, Rogers, Wattier & Brown  
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# **EXHIBIT 1**



## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY  
Webster Exchange Only - Midcontinent Communications

	Non- Recurring	Monthly Recurring	
<b>Switch-Related Investment Costs:</b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 15,500		Webster Only
Additional Software Features	\$ 4,000		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 9,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 8,700		
Subtotal	\$ 42,200		
<b>NPAC-Related Costs:</b>			
Service Order Administration	\$ 1,800	\$ 1,350	
LNP Queries	\$ 500	\$ 250	
Connection Costs w/LNP Database	\$ 150	\$ -	
Subtotals	\$ 2,450	\$ 1,600	
<b>Technical/Administrative Costs:</b>			
		2 Ports/Month	
Testing/Verification of Each Ported Dial Number	\$ -	\$ 92	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 92	Translations Costs - Ported Numbers
Administrative	\$ 4,000	\$ 210	
Regulatory	\$ 5,000	\$ -	
Customer Care	\$ 5,000	\$ 42	
Marketing/Informational Flyer	\$ 5,000	\$ 300	
Maintenance	\$ -	\$ 10	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
Subtotals	\$ 24,000	\$ 746	
<b>Transport-Related Costs:</b>			
Midco Point of Interconnection (POI)	\$ -	\$ -	
Midco POI Connection	\$ -	\$ -	Transiting Carrier POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
Subtotals	\$ 500	\$ 100	
Total Estimated Costs Associated with LNP Implementation	\$ 69,150	\$ 2,446	
Current Access Lines	1,660	1,660	
Total Estimated Costs Per Access Line (Rounded)	\$ 42	\$ 2	
Access Line Impact - First 60-Month Period		\$ 3	

## Exhibit 2

## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

ESTIMATED COSTS TO IMPLEMENT INTERMODAL LOCAL NUMBER PORTABILITY  
All ITC South Dakota Exchanges

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 76,264		
Additional Software Features	\$ 4,000		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 27,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 17,400		
<b>Subtotal</b>	<b>\$ 129,664</b>		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 1,800	\$ 2,100	
LNP Queries	\$ 500	\$ 1,875	
Connection Costs w/LNP Database	\$ 900	\$ -	
<b>Subtotals</b>	<b>\$ 3,200</b>	<b>\$ 3,975</b>	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 90	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 90	Translations Costs - Ported Numbers
Administrative	\$ 8,000	\$ 200	
Regulatory	\$ 15,000	\$ -	
Customer Care	\$ 5,000	\$ 80	
Marketing/Informational Flyer	\$ 30,000	\$ 1,250	
Maintenance	\$ -	\$ 10	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
<b>Subtotals</b>	<b>\$ 63,000</b>	<b>\$ 1,720</b>	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carriers Point of Interconnection (POI)	\$ 576,000	\$ 165,870	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 577,000</b>	<b>\$ 166,170</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>	<b>\$ 772,864</b>	<b>\$ 171,865</b>	
<b>Current Access Lines</b>	<b>14,529</b>	<b>14,529</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>	<b>\$ 54</b>	<b>\$ 12</b>	
<b>Access Line Impact - First 60-Month Period</b>		<b>\$ 13</b>	

## Exhibit 3

## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

## SUMMARY OF EXCHANGES, NPA-NXX, AND CLLI CODES

Rate Center	OCN	STATE	NPA	NXX	SWITCH
ASTORIA	1651	SD	605	832	ASTRSDXARS1
BRADLEY	1651	SD	605	784	BRDLSDXARS1
BRANDT	1651	SD	605	876	BRNTSDXARS2
BROOKINGS	1651	SD	605	693	BKNGSDXBDS0
BRYANT	1651	SD	605	625	WLLKSDXARS6
CASTLEWOOD	1651	SD	605	793	CSWDSDXARS1
CHESTER	1651	SD	605	489	CHESSDXARS1
CLARK	1651	SD	605	532	CLRKSDXADS0
CLEAR LAKE	1651	SD	605	874	CLLKSDXADS0
ELKTON	1651	SD	605	542	EKTNSDXARS3
ESTELLINE	1651	SD	605	873	ESTLSDXADS0
FLORENCE	1651	SD	605	758	FLRNSDXARS1
GARY	1651	SD	605	272	GARYSDXADS0
GOODWIN	1651	SD	605	795	GDWNSDXARS4
HAYTI	1651	SD	605	783	HAYTSDXARS1
LAKE NORDEN	1651	SD	605	785	LKNRSD01RS0
NUNDA	1651	SD	605	586	NUNDSDXARS2
SINAI	1651	SD	605	826	SINASDXARS3
TORONTO	1651	SD	605	794	TOROSDXARS5
WAUBAY	1651	SD	605	947	WABYSDXARS1
WEBSTER	1651	SD	605	345	WBSTSDXADS0
WENTWORTH	1651	SD	605	483	WNWOSDXARS4
WEST HENDRICKS	1651	SD	605	479	HNDRMNXHRS2
WHITE	1651	SD	605	629	WHTESDXARS6
WILLOW LAKE	1651	SD	605	628	BRYNSD01RS0
EAST ELKTON	1654	MN	507	548	EKTNSDXARS3
EAST GARY	1654	MN	507	277	GARYSDXADS0
HENDRICKS	1654	MN	507	275	HNDRMNXHRS2
LAKE BENTON	1654	MN	507	368	LKBNMNXLRS3

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF INTERSTATE TELECOMMUNICA-  
TIONS COOPERATIVE, INC. FOR  
SUSPENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

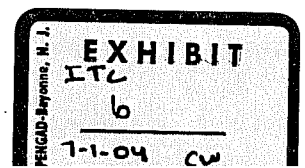
Docket No. TC04-054  
DIRECT TESTIMONY OF  
JERRY HEIBERGER

DIRECT TESTIMONY OF JERRY HEIBERGER

FILED ON BEHALF OF

INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

June 30, 2004



1 **Q. Please state your name, title, business address, and telephone number for the**  
2 **record.**

3 A. My name is Jerald (Jerry) J. Heiberger. I am the General Manager for Interstate  
4 Telecommunications Cooperative, Inc., located at 312 4<sup>th</sup> St. West, Clear Lake, South  
5 Dakota, 57226. My telephone number is (605) 874-2181.

6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by Interstate Telecommunications Cooperative, Inc. (ITC)  
8 headquartered in Clear Lake, SD.

9 **Q. Please briefly describe your employment duties.**

10 A. As the General Manager of ITC and its two wholly owned subsidiary companies,  
11 Interstate Satellite Services, Inc. and ITC Rural Economic Development Inc., I am  
12 responsible for managing all activities of the cooperative and its subsidiaries directly  
13 or through subordinate managers. I report to an eleven person board of directors. I  
14 interpret and implement board policies. I plan, direct, coordinate and control all lines  
15 of the business with the assistance of my manager and supervisory personnel. I  
16 determine the objectives, establish operating procedures and ensure the success of  
17 companies within the guidelines and authority established by the board of directors. I  
18 ensure that all operations comply with applicable federal, state and local regulations. I  
19 am the primary representative of ITC before regulatory agencies, legislative bodies  
20 and industry associations. I evaluate new business opportunities and prepare  
21 recommendations to the board based on my analysis.

1 **Q. As part of your duties as General Manager, were you involved with negotiating**  
2 **the Interconnections Agreement, including the issue of Local Number Portability**  
3 **(LNP) with Midcontinent Communications (Midcontinent)?**

4 A. Yes. I directly negotiated with Midcontinent on these issues.

5 **Q. What issues does your testimony address?**

6 A. I will show that ITC never agreed to provide LNP to Midcontinent and that ITC  
7 specifically reserved the right to pursue its legal options, including filing a petition for  
8 suspension or modification pursuant to Section 251(f) (2). Further, I will show that  
9 Midcontinent knew that ITC may not provide LNP and agreed to this in the  
10 Interconnection Agreement. Finally, I will show that ITC proceeded in good faith to  
11 examine the cost and other issues concerning LNP; kept Midcontinent informed of its  
12 progress; and that Midcontinent never expressed any dissatisfaction with ITC's  
13 efforts until ITC informed Midcontinent that it would file a petition for suspension or  
14 modification of LNP before the South Dakota Public Utilities Commission.

15 **Q. When did Midcontinent request interconnection from ITC?**

16 A. Midcontinent served ITC with a copy of its request for interconnection in the Webster  
17 exchange on April 18, 2003. The document included a request that ITC and  
18 Midcontinent personnel meet within two weeks to establish a schedule and  
19 framework for negotiations to develop an Interconnection Agreement. On May 1,  
20 2003, two weeks after the application was filed with the South Dakota Public Utilities  
21 Commission, Midcontinent and ITC met to discuss its request.



1 Q. In her testimony, Ms. Lohnes states that during the May 1, 2003 meeting, "A  
2 broad discussions was held on what services Midcontinent planned to provide,  
3 which included LNP." Is this your recollections of events?

4 A. No. With respect to Ms. Lohnes' statement concerning the discussion of LNP, my  
5 recollection is that during this meeting, Midcontinent stated that they would be  
6 applying for their own NXX and that they may request LNP from ITC.

7 Q. When did Midcontinent raise the issue of LNP again?

8 A. Midcontinent did not raise the issue of LNP again until early September 2003. By  
9 this time, the parties had reached agreement on most provisions in the Interconnection  
10 Agreement.

11 Q. Describe what took place during the negotiation of the Interconnection  
12 Agreement with respect to LNP.

13 A. On September 15, 2003, Midcontinent proposed the addition of a provision to the  
14 agreement to address LNP. The provision proposed by Midcontinent stated that the  
15 "Parties shall provide Number Portability" and further stated that the "Parties will  
16 follow the LNP (Long-term Number Portability) provisioning process recommended  
17 by the North American Numbering Council (NANC) and adopted by the FCC." A  
18 copy of the full text of Midcontinent's proposal is attached as Exhibit 1 to my  
19 testimony. This language makes it clear that if ITC had accepted Midcontinent's  
20 proposal it would be agreeing to provide LNP. It further makes it clear that  
21 Midcontinent was requesting long-term number portability and not interim number  
22 portability.

1 **Q. Did ITC agree to this proposal?**

2 A. No. ITC did not accept this proposed language.

3 **Q. What happened next?**

4 A. Midcontinent proposed a revised provision, attached hereto as Exhibit 2. This  
5 provision still stated that the parties “shall” provide number portability. It also  
6 contained a reservation of rights for Midcontinent “should the parties be unable to  
7 agree upon terms and conditions for number portability...”

8 **Q. Did ITC agree to this proposal?**

9 A. No.

10 **Q. Then what happened?**

11 A. ITC suggested a number of changes to Midcontinent’s language. ITC deleted the  
12 language that stated ITC shall provide number portability and inserted language to  
13 make it clear that ITC was not agreeing to provide number portability. Specifically,  
14 ITC inserted language stating that “[t]o the extent that [number portability] is  
15 provided” it would be provided in accordance with the rules and regulations  
16 prescribed by the FCC and the South Dakota Public Utilities Commission. Further,  
17 ITC reserved its rights under the Act and South Dakota law, which rights “may be  
18 asserted *should the parties be unable to agree to provide number*  
19 *portability...*”(emphasis added). The full text of this proposal is attached as Exhibit

20 3.

21 **Q. Did Midcontinent agree to this proposal?**

1 A. No. Midcontinent submitted an alternate first sentence to the proposed language  
2 which stated that the parties would negotiate in good faith "to achieve" number  
3 portability. A copy of the text of this proposal is attached as Exhibit 4.

4 **Q. Did ITC agree to this proposal?**

5 A. No. ITC struck the words "to achieve" from the first sentence to eliminate any  
6 language that would indicate that ITC was agreeing to provide number portability. A  
7 copy of the text of this proposal is attached as Exhibit 5.

8 **Q. Did Midcontinent agree to this change?**

9 A. Yes.

10 **Q. In her testimony, Ms. Lohnes states that the Interconnection Agreement was**  
11 **signed by ITC on November 3, 2003; that it was signed by Midcontinent on**  
12 **November 6, 2003; and that it was approved by the Commission on December**  
13 **17, 2003. Do you agree with these dates?**

14 A. Yes.

15 **Q. After the parties agreed to this language, please describe what ITC did.**

16 A. ITC began investigating the cost and implementation of LNP. ITC's investigation  
17 began in November 2003 and continued through February 2004. In March 2004, ITC  
18 filed its petition, asking the South Dakota Public Utilities Commission to suspend or  
19 modify the requirements of Section 251(b)(2) of the Act concerning the provision of  
20 local number portability.

21 **Q. ITC's opposition to Midcontinent's Motion To Compel and Ms. Lohnes'**  
22 **testimony contain e-mail messages between the parties and describe voice mail**  
23 **messages and telephone communications between the parties concerning LNP.**

1 Do you agree that these are the total communications between the parties  
2 concerning LNP after the Commission approved the Interconnection  
3 Agreement?

4 A. To the best of my knowledge, these are the total communications between the parties  
5 concerning LNP.

6 Q. Prior to filing its Motion to Compel, did Ms. Lohnes or anyone else at  
7 Midcontinent ever tell you that ITC's responses concerning LNP were  
8 unsatisfactory or that Midcontinent believed ITC was not negotiating in good  
9 faith?

10 A. No. You can see from the e-mail messages that Ms. Lohnes never indicated that my  
11 responses were unsatisfactory. The first time Midcontinent stated that it believed ITC  
12 was not negotiating in good faith was in its Motion To Compel filed at the South  
13 Dakota Public Utilities Commission.

14 Q. In her testimony, Ms. Lohnes states that she was "under the impression that Mr.  
15 Heiberger simply was delaying the process, and the context of his responses  
16 corroborates that conclusion." As an example, Ms. Lohnes states that "the  
17 January 29<sup>th</sup> conversation referenced a board meeting at which LNP would be  
18 discussed, yet by February 24<sup>th</sup> Mr. Heiberger still had not contacted me, nor  
19 did he ever mention what happened a (sic) the board meeting." Please explain  
20 why you did not respond to Ms. Lohnes until February 24<sup>th</sup>.

21 A. At the time of Midcontinent's request, ITC had not been required to implement LNP  
22 and ITC had no experience with the estimated costs and implementation issues in  
23 connection with LNP. Once the LNP provision was included in the Midcontinent

1 Interconnection Agreement, ITC personnel began researching the anticipated costs  
2 and implementation issues which we would be faced with if we deployed LNP.  
3 Because this was a new issue for ITC, it took time for ITC to gather the pertinent  
4 information. Once the overall costs and issues were developed, a decision was made  
5 to file for a suspension or modification of the LNP requirements because of the  
6 projected costs our cooperative members would have to bear. I was not able to  
7 discuss LNP deployment with Midcontinent until all aspects of deploying LNP  
8 services were identified and discussed with the ITC board of directors, consultants  
9 and legal counsel.

10 With respect to Ms. Lohnes' implication that I should have contacted her before  
11 February 24, I note that during the January 29<sup>th</sup> conversation Ms. Lohnes did not ask  
12 for a response by a specific date. Furthermore, Ms. Lohnes made no further attempt  
13 to contact me between the time period of January 29<sup>th</sup> to February 24<sup>th</sup>. If my lack of  
14 response was unacceptable, I would expect Ms. Lohnes to have contacted me.

15 I also note that pursuant to the Interconnection Agreement, the LNP negotiation  
16 period did not end until May 2004. However, ITC informed Midcontinent of its  
17 intent to file a petition for suspension of LNP on May 4, 2004, well before the end of  
18 the negotiation period.

19 **Q. Did Midcontinent ever request interim number portability?**

20 A. No. The first time Midcontinent ever mentioned interim number portability was in the  
21 direct testimony of W. Tom Simmons, filed on May 13, 2004.

1 **Q. Did Midcontinent contact you in any way to pursue negotiations of interim**  
2 **number portability?**

3 A. No. Midcontinent has never requested interim number portability nor has it ever  
4 asked ITC to negotiate interim number portability.

5 **Q. Are you prepared to discuss interim local number portability with Midcontinent?**

6 A. Yes.

7 **Q. After ITC informed Midcontinent that ITC would file a petition for suspension**  
8 **or modification of the LNP requirement; did Midcontinent contact you for**  
9 **further negotiations in connection with LNP in the Webster exchange?**

10 A. No. Since ITC informed Midcontinent that it would file a Petition for Suspension or  
11 Modification, Midcontinent has not contacted ITC for further negotiations in  
12 connection with LNP in the Webster Exchange.

13 **Q. What do you conclude from the fact that Midcontinent has not contacted you in**  
14 **connection with negotiations for LNP in the Webster exchange since you**  
15 **informed Midcontinent of ITC's intention to file a suspension petition?**

16 A. I conclude that the real purpose of Midcontinent's Motion to Compel is not to compel  
17 ITC to negotiate because if negotiation is what Midcontinent really wanted, I would  
18 expect them to contact me. Rather, it appears that Midcontinent hopes to influence  
19 the Commission's decision on ITC's LNP suspension petition by alleging that ITC  
20 engaged in "bad faith negotiations."

21 **Q. Does this conclude your testimony?**

22 A. Yes.

## EXHIBIT 1

September 15, 2003

Memo

To: Ben Dickens and Jerry Heiberger

From: Dave Gerdes

Re: ITC Interconnection Agreement; Our file: 4056

*What follows is what I understand to be standard number portability language from a BOC interconnection agreement which I have modified to fit our situation. I am suggesting that the language immediately below is probably sufficient for our purposes, because the internal references will yield the process outlined in the succeeding numbered paragraphs. However, if you would prefer to address the process in more detail, we can incorporate the succeeding paragraphs (in such form as we finally agree).*

*I have made some modifications to address the size of the exchange, most notably in paragraph 10.*

#### D. NUMBER PORTABILITY

As provided in Act Section 251 (b)(2), the Parties shall provide Number Portability ("NP") in accordance with rules and regulations as from time to time prescribed by the FCC and the Commission. Location Routing Number (LRN) is currently being used by the telecommunications industry to provide NP, and will be used by the Parties to implement LNP between their networks. The Parties will follow the LNP (Long-term Number Portability) provisioning process recommended by the North American Numbering Council (NANC) and adopted by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the Ordering and Billing Forum (OBF). The Parties shall provide LNP on a reciprocal basis.

*All of the following language implements the basic obligations described above. It is omitted here in order to use a simple number portability provision consistent with the structure of the agreement. If the parties wish, the following language can be used, with the paragraph above numbered one and indented appropriately.*

2. LNP shall be provided when a Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B") and the Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) previously provided by Party A, in conjunction with the Telephone Exchange Service(s) provided by Party B. After Party B has received an appropriate authorization in accordance with Applicable Law from a Customer and sends a LSR to Party A, Parties A and B will work together to port the customer's telephone number(s) from Party A's network to Party B's network. In accordance with Applicable Law, each Party will



maintain evidence of authorizations and, upon request, provide copies of such evidence to the other.

3. When a telephone number is ported out of Party A's network, Party A will remove any non-proprietary line based calling card(s) associated with the ported number(s) from its Line Information Database ("LIDB"). Reactivation of the line-based calling card in another LIDB, if desired, is the responsibility of Party B or Party B's Customer.

4. When a Customer of Party A ports his or her telephone number(s) to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, ~~these reserved but inactive numbers may be~~ ported along with the active numbers to be ported, provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.

5. When a Customer of Party A ports his or her telephone number(s) to Party B, in the process of porting the Customer's telephone number(s), Party A shall implement the ten-digit trigger feature 48 hours prior to Party B's due date. If, in the case of Direct Inward Dialing (DID) numbers and Remote Call Forwarding numbers the LNP ten-digit trigger can not be used, the Parties shall coordinate the Customer's porting using procedures developed by the North American Numbering Council (NANC), or other 'hot cut' procedures as may be mutually agreed to. When Party A receives the porting request, the LNP ten-digit trigger shall be applied to the Customer's line before the due date of the porting activity. When the LNP ten-digit trigger can not be used, Party A and Party B must coordinate the disconnect activity. The Parties agree that changes to a scheduled port will be permitted until 5PM the day of the port and that a due date change may be required. When Party B does not require loop facilities from Party A and the LNP ten-digit trigger has been provisioned, Party A agrees to not disconnect the LNP ten-digit trigger and associated line translations until 11:59 PM on the day of the scheduled port. When a porting request of Party B requires loop facilities from Party A or when the ten-digit trigger is not available from Party A, the Parties must coordinate the disconnection of the loop and/or switch facilities from Party A's network with the activation of the loop and/or switch facilities on Party B's network.

6. The Parties shall furnish each other with the Jurisdiction Information Parameter (JIP) in the Initial Address Message (IAM), containing a Local Exchange Routing Guide (LERG)-assigned NPA-NXX (6 digits) identifying the originating switch on calls originating from LNP-capable switches.

7. Where LNP is commercially available, the NXXs (current and new) in the office shall be defined as portable, except as noted in 14.2.7, and translations will be changed in the Parties' switches to open those NXXs for database queries in all applicable

LNP-capable offices within the LATA of the given switch(es). On a prospective basis, all newly deployed switches will be equipped with LNP capability and so noted in the LERG.

8. Both Parties' use of LNP shall meet the performance criteria specified by the FCC. Both Parties will act as the default carrier to perform LRN queries for the other Party in the event that either Party is unable to perform the routing necessary for LNP, according to the terms and conditions contained in the default carrier's Tariff. Each Party has the right to block default-routed calls entering its network in order to protect the public switched network from overload, congestion, or failure propagation.

9. When a ported telephone number is disconnected, i.e., the telephone number is no longer in service by the original Customer, the ported telephone number will be released back to the donor carrier from which the telephone number had been ported. In addition, when a ported number is disconnected, both Parties shall agree to adhere to the Industry Numbering Committee (INC) Guidelines for the Aging and Administration of Disconnected Telephone Numbers, contained in document INC99-1108-024, dated November 8, 1999.

10. Each Party shall provide LNP using the following provisioning intervals for porting 20 or fewer numbers per customer:

Party B will make commercially reasonable efforts to respond to LNP requests with Firm Order Confirmation within 24 hours (excluding weekends and holidays) of receipt of valid requests; or

Party B will make commercially reasonable efforts to respond to LNP requests with query or error notification within 24 hours (excluding weekends and holidays) of receipt of invalid requests.

Porting orders will be subject to the schedule implemented under the auspices of the Commission. In the absence of such schedule, porting orders will be processed within 3 business days. When requested by Party B, Party A shall provide sufficient workforce to implement the port and to ensure necessary escalation if needed in the event of problems outside of regular working hours.

## EXHIBIT 2

D. NUMBER PORTABILITY

The parties shall provide number portability on a reciprocal basis under terms and conditions to be negotiated and added to this agreement by amendment, effective not more than six months from the date of this agreement. Number portability will be provided in accordance with the rules and regulations prescribed by the FCC and the Commission. It is agreed that Midcontinent reserves all rights it now has associated with number portability under the Act and South Dakota Law, which may be asserted should the parties be unable to agree upon terms and conditions for number portability as contemplated by this paragraph.

## Exhibit 3

D. NUMBER PORTABILITY

The parties ~~will attempt to negotiate the provision of~~ shall provide number portability on a reciprocal basis under terms and conditions to be negotiated and added to this agreement by amendment, ~~effective not more than~~ within six months from the date of this agreement. ~~To the extent that it is provided,~~ number portability will be provided in accordance with the rules and regulations prescribed by the FCC and the Commission. It is agreed that ITC and Midcontinent reserves all rights ~~they it now have~~ associated with number portability under the Act and South Dakota Law, which may be asserted should the parties be unable to agree to provide number portability or to agree upon terms and conditions for number portability, ~~as contemplated by this paragraph.~~

## **EXHIBIT 4**

D. NUMBER PORTABILITY

The parties ~~will attempt to negotiate in good faith to achieve the provision of~~ shall provide number portability on a reciprocal basis under terms and conditions to be negotiated and added to this agreement by amendment, ~~effective not more than~~ within six months from the date of this agreement. To the extent that it is provided, Number portability will be provided in accordance with the rules and regulations prescribed by the FCC and the Commission. It is agreed that ITC and Midcontinent reserves all rights they ~~it~~ now haves associated with number portability under the Act and South Dakota Law, which may be asserted should the parties be unable to agree to provide number portability or to agree upon terms and conditions for number portability, ~~as contemplated by this paragraph.~~



## Exhibit 5

D. NUMBER PORTABILITY

The parties ~~will attempt to negotiate in good faith to achieve the provision of~~ shall provide number portability on a reciprocal basis under terms and conditions to be negotiated and added to this agreement by amendment, ~~effective not more than~~ within six months from the date of this agreement. To the extent that it is provided, ~~N~~number portability will be provided in accordance with the rules and regulations prescribed by the FCC and the Commission. It is agreed that ITC and Midcontinent reserves all rights they it now have associated with number portability under the Act and South Dakota Law, which may be asserted should the parties be unable to agree to provide number portability or to agree upon terms and conditions for number portability, ~~as contemplated by this paragraph.~~

1 **DIRECT TESTIMONY**

2 **OF**

3 **W. TOM SIMMONS**

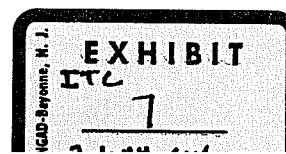
4 **ON BEHALF OF**

5 **MIDCONTINENT COMMUNICATIONS**

6 **IT THE MATTER OF THE PETITION OF INTERSTATE**  
7 **TELECOMMUNICATIONS COOPERATIVE, INC. FOR SUSPENSION**  
8 **OR MODIFICATION OF 47 U.S.C. SECTION 251 (b) (2)**  
9 **OF THE COMMUNICATIONS ACT OF 1934 AMENDED**

10 **Docket TC04-054**  
11  
12  
13  
14  
15

16 **JUNE 25, 2004**  
17



**INTRODUCTION**

**Q. PLEASE STATE YOUR NAME FOR THE RECORD:**

A. W. Thomas Simmons

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

A. I am employed by Midcontinent Communications as the Vice President of Public Policy.

**Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

A. I am the corporate officer responsible for regulatory, government and community affairs, public and media relations, and represent our telephone, cable and Internet product teams on policy issues.

**Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?**

A. I hold a Bachelor and Masters degrees in Psychology and have been a Midcontinent Vice President since 1989. My first Midcontinent assignment was with the broadcast division as a general manager of four South Dakota radio stations. In 1995, I joined the telecommunications division, Midco Communications, as their general manager. From 1995 to 2001, I led the team that developed our local exchange operation and developed the commercial and network services group.

**Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

A. Yes. I have participated in numerous issues and meetings, formally filing testimony "In the Matter of the Establishment of Switched Access rates for US West Communications, Inc", Docket TC 96-107, "In the Matter of the Analysis of Qwest Corporation's Compliance With Section 271c of the Telecommunications Act of 1996",

1 Docket TC 01-165, and “In the Matter of the Application of Qwest Corporation to  
2 Reclassify Local Exchange Services as Fully Competitive”, Docket TC 03-057.

3 **WHAT ISSUES DOES THIS TESTIMONY ADDRESS?**

4 A. The importance of Local Number Portability and provision alternatives.

5 **WHAT IS THE IMPORTANCE OF LOCAL NUMBER PORTABILITY?**

6 Q. One of the most significant barriers to competition is the inability of customers to  
7 switch from one telephone provider to another and retain the same number, which is  
8 why Congress directed telephone providers in the Telecommunications Act of 1996  
9 to provide Local Number Portability. Recognizing that there would be initial  
10 complications in developing number portability, the “96 Act” addressed specific  
11 options.

12 **ARE THERE OPTIONS AVAILABLE FOR DELIVERING FOR PORTING**  
13 **LOCAL NUMBERS?**

14 Q. The options are Long Term or Permanent Number Portability and Interim Number  
15 Portability.

16 **WHAT ARE THE DIFFERENCES BETWEEN THESE METHODS?**

17 Q. Long term Number portability is generally defined as the ability of the end user to  
18 permanently retain, at the same location, existing telephone numbers without  
19 impairment of quality reliability or convenience when changing from one service  
20 provider to another. End users can easily choose providers within a rate center and  
21 keep their number. Under long term number portability, proper call routing is  
22 accomplished by “dipping” into the LNP database to obtain the local routing number  
23 (LRN), and the call is routed directly to the switch of the customers chosen provider.

1 Interim Number Portability is most commonly provisioned using the remote call  
2 forwarding method (RCF) which requires the customer's directory number to be  
3 retained in the original providers switch and a second "shadow" number to be  
4 assigned in the requestor's switch.

5 **Q. WHAT ARE THE SIGNIFICANT CHARACTERISTICS OF THESE**  
6 **DIFFERING METHODS?**

7 A. Long Term or Permanent Number Portability is the best solution. After a customer  
8 has made the choice to change service providers, calls are routed is as directly as  
9 they were with the previous provider. It's as if the customer had been initially set  
10 up with the provider of choice. There are, however, significant costs in initially  
11 setting up permanent portability. Interim Number Portability is relatively  
12 inexpensive to establish. The major drawbacks may include feature limitations  
13 which may impact proper caller ID transmission for a call originating from a  
14 shadow number. An RCF call requires a line from the original provider and a line  
15 from the new provider to remain seized for the duration of a call.

16 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

17 A. The Telecommunications Act of 1996 was enacted to establish a national  
18 framework to promote competition and reduce unnecessary regulation. Congress  
19 recognized that bringing competition to local phone markets would speed high  
20 quality services, advanced services, and competitive prices to customers by  
21 offering them choices. Competition is all about choice. In reality, what choice do  
22 customers have if they are held captive to a company that "owns" their telephone  
23 number. I offer the information on Interim Number Portability as a cost effective,

1       albeit temporary option until real impact can be measured and properly sized.

2       While I can't counter with specific details, the cost estimates of permanent number  
3       portability offered by the petitioner strike me as extraordinarily high. Perhaps  
4       after a reasonable period of time and experience in offering local number  
5       portability the cost of equipment and back office work flow can be more accurately  
6       predicted.

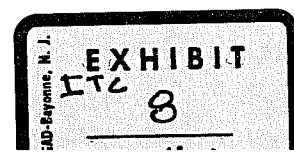
7       **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

8       A. It does.

**DIRECT TESTIMONY  
OF  
MARY LOHNES  
ON BEHALF OF  
MIDCONTINENT COMMUNICATIONS  
IN THE MATTER OF THE PETITION OF  
INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.  
FOR SUSPENSION OF MODIFICATION OF 47 U.S.C. SECTION 251(b)(2) OF  
THE COMMUNICATIONS ACT OF 1934 AMENDED**

Docket TC04-054

June 25, 2004





## **INTRODUCTION**

### **Q. PLEASE STATE YOUR NAME FOR THE RECORD:**

A. Mary Lohnes

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

A. I am employed by Midcontinent Communications as Regulatory Affairs Manager.

### **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EMPLOYMENT EXPERIENCE.**

A. I hold a B.S. in Organizational Behavior and Management from Sioux Falls College, Sioux Falls, SD. My employment with Midcontinent began in June of 1991 in sales support and in 1993 was promoted to Product Manager of Long Distance. With the passage of the 1996 Telecommunications Act, I was part of the team that negotiated an agreement with Qwest (then USWest) to provide local exchange services in South Dakota. I managed the team that submitted orders and worked trouble calls. The fall of 1999 I managed the telephone customer service department and handled regulatory affairs responsibilities. In 2000 I became the Regulatory Affairs Manager.

## **II. TESTIMONY**

### **Q. WHAT ISSUES DOES THIS TESTIMONY ADDRESS?**

A. I will show that, as part of the Interconnection Agreement signed by Interstate Telecommunications Cooperative and Midcontinent Communications, Local Number Portability was negotiated and that the agreed upon negotiation never took place.

### **Q. DESCRIBE WHAT TOOK PLACE.**

A. Midcontinent Communications made a financial decision and commitment to bring competitive local exchange service to the community of Webster. On April 17, 2003, Midcontinent made application with the SD PUC to expand its Certificate of Authority to include the service territory of Webster, serviced by Interstate Telecommunications

Cooperative. At that same time, Midcontinent sent notice to ITC of the application to the PUC and a request for interconnection in the Webster exchange and to have a meeting within two weeks of the notice. That meeting took place on May 1, 2003 where a broad discussion was held on what services Midcontinent planned to provide, which included LNP.

The companies entered into negotiation on the interconnection agreement and after much discussion, the companies agreed that "The parties will negotiate in good faith the provision of number portability on a reciprocal basis under terms and conditions to be negotiated and added to this agreement by amendment, within six months from the date of this agreement."

The agreement was signed by ITC on November 3, 2003, and by Midcontinent on November 6, 2003. The SD PUC Commission approved the agreement on December 17, 2003.

On December 29, 2003, I sent an email message to Mr. Jerry Heiberger, general manager of ITC, requesting a date for the following week to discuss number porting. **Exhibit 1.**

Mr. Heiberger responded on January 8, 2004 stating that he had been busy with meetings and requested a meeting on Monday January 4<sup>th</sup>. I responded back that I assumed he meant January 12<sup>th</sup> and that Midcontinent would be available the morning of the 12<sup>th</sup>. **Exhibit 2.**

On January 12<sup>th</sup>, Mr. Heiberger called me stating that he still needed more time for research with his team to look into number portability. They needed to know specific details relating to details of execution and costs. He further stated that he would make it a higher priority with this people and get back in a week or so. I agreed to another short delay. **Exhibit 3.**

On January 28, 2004, Mr. Heiberger left me a voice mail message that he wanted to give me an update on the LNP issue. **Exhibit 4.**

On January 29, 2004, I returned Mr. Heiberger's call. We discussed a switch issue and he informed me of a board meeting coming up where LNP issues would be discussed. **Exhibit 5.**

On February 24, 2004, I sent an email to Mr. Heiberger asking for an update on his research progress, and requested a meeting. **Exhibit 6.**

On February 25, 2004, Mr. Heiberger responded that he was trying to establish another call with the appropriate personnel for that afternoon and would call once they have the issues finalized. **Exhibit 7.**

On March 3, 2004, I sent Mr. Heiberger another email requesting a meeting. **Exhibit 8.**

On March 4, 2004, Mr. Heiberger responded that ITC has determined to file a petition for suspension or modification of the LNP rules and requirements with the SD PUC. **Exhibit 9.**

**Q. ITC HAS CONTENDED THAT IT WAS NOT CLEAR THAT MIDCONTINENT WAS INTENT ON SCHEDULING A MEETING. WHAT IS YOUR RESPONSE?**

A. I had to initiate virtually all contacts in an effort to get the matter moving. I was under the distinct impression that Mr. Heiberger simply was delaying the process, and the context of his responses corroborates that conclusion. For example, the January 29<sup>th</sup> conversation referenced a board meeting at which LNP would be discussed, yet by February 24<sup>th</sup> Mr. Heiberger still had not contacted me, nor did he ever mention what happened at the board meeting.

**Q. WHY IS LNP IMPORTANT TO MIDCONTINENT IN THE WEBSTER EXCHANGE?**

A. Midcontinent cannot effectively compete against ITC without LNP. Customers tend to want to keep their telephone numbers. We have found that in other markets about 50% of the time customers request to keep their phone number in order to make the switch to a new carrier. Many of those are senior citizens who don't want to have to try and remember a new phone number and get it out to their family and friends. Midcontinent has received a number of requests from Webster customers for number portability. Remember, Midcontinent's entry into the Webster exchange is a competitive entry. ITC is offering cable service in competition to Midcontinent's long standing presence in the market, since 1974. Midcontinent believes ITC, as the incumbent carrier, is clearly violating both the spirit and the letter of the 1996 Act in impeding competition in this manner.

### **III. SUMMARY**

#### **PLEASE SUMMARIZE YOUR TESTIMONY.**

The time line of attempted negotiations on the part of Midcontinent clearly demonstrates the ample amount of notice and time for ITC to determine the method to provide LNP. The messages clearly demonstrate Midcontinent's desire and patience to negotiate terms discussed in the PUC approved Interconnection Agreement. The messages also clearly demonstrate a lack of interest on the part of ITC to negotiate in good faith the provision of number portability as agreed to in our Interconnection Agreement. Their decision to file a petition with the Commission for suspension under the Wireless Porting Order leads us to question whether they ever intended to negotiate in good faith, or simply view their petition for suspension as a way of relief from their previous commitment. In either case, ITC's agreement to negotiate in good faith for Wireline LNP should be upheld.

#### **DOES THIS CONCLUDE YOUR TESTIMONY?**

Yes, it does.

## **Exhibit 1**

**From:** Mary Lohnes  
**Sent:** Monday, December 29, 2003 3:16 PM  
**To:** Jerry Heiberger (E-mail)  
**Subject:** LNP  
Good Afternoon Jerry,

We need to keep the discussion on number porting going, is there a day and time next week that would work for you?

Happy New Year!  
Mary

## **Exhibit 2**

From: Jerry Heiberger [jerryhei@itctel.com]  
Sent: Thursday, January 08, 2004 4:26 PM  
To: 'Mary Lohnes'  
Subject: RE: LNP

Mary,

I have been gone for the holidays and am trying to get caught up with board of director issues the past few days. Will you be available on Monday, January 4th. I will plan to call you sometime mid morning if this works for your schedule.

Thanks,

Jerry

## **Exhibit 3**

### ITC – LNP

Below are phone calls and/or voice mail message notes which are in addition to email messages:

Jerry had sent an email on January 8, 2004, in response to my email request for a meeting. Jerry suggested a meeting on Monday, January 4<sup>th</sup>. I replied on January 9<sup>th</sup> that I assumed he meant Monday, January 12<sup>th</sup>.

I received a phone call from Jerry on January 12<sup>th</sup>. Jerry said that he still needed to do some research with his team to look into it. They needed to know what it all will take to get it done and the costs. Jerry said he would make it a higher priority with this people and get back in a week or so

#### **Exhibit 4**

##### ITC – LNP

Below are phone calls and/or voice mail message notes which are in addition to email messages:

On January 28, 2004, Jerry Heiberger left me a voice mail message that he had an update on the LNP issue to give me.

#### **Exhibit 5**

##### ITC – LNP

Below are phone calls and/or voice mail message notes which are in addition to email messages:

January 29, 2004, I returned Jerry's call. I advised Jerry that our technical team had been trying to test the connectivity but had been running into some problems. We are being asked to turn up "00" for continuity test. We would like ITC to leave the circuits up so we can test on our own schedule and will then advise them of test completion. Jerry was unaware of any problems and did not know what "00" meant. Jerry would have their technical manager call Midcontinent's technical manager.

Still working on LNP.

#### **Exhibit 6**

**From:** Mary Lohnes  
**Sent:** Tuesday, February 24, 2004 2:23 PM  
**To:** Jerry Heiberger (E-mail)  
**Subject:** LNP  
Good Afternoon Jerry,

Where are you at with your research on LNP? Are you soon at a point where we should have a meeting to discuss the process?

Thanks!  
Mary

#### **Exhibit 7**

From: Jerry Heiberger [jerryhei@itctel.com]  
Sent: Wednesday, February 25, 2004 8:35 AM  
To: 'Mary Lohnes'  
Subject: RE: LNP

Good Morning Mary,

I am trying to establish another call with appropriate personnel for this afternoon. I will call once we have the issues finalized.

Jerry

## **Exhibit 8**

From: Mary Lohnes  
Sent: Wednesday, March 03, 2004 3:40 PM  
To: 'Jerry Heiberger'  
Cc: Nancy Vogel  
Subject: RE: LNP

Good Afternoon Jerry,

Are you ready for a meeting to discuss LNP? We will need to discuss how we will exchange information between our companies, paper or electronic. We will also want to discuss the exchange of other customer related information such as directory listing, phone book listings, and intercept messages.

Thanks!  
Mary

## **Exhibit 9**

From: Jerry Heiberger [jerryhei@itctel.com]  
Sent: Thursday, March 04, 2004 12:44 PM  
To: mary\_lohnes@mmi.net  
Subject: LNP

Our e-mail server is back up so I thought I would try to send you this message again via e-mail.

Jerry

Good Morning Mary,

After two days of board meetings, I have finally returned to my office to update you on the status of the LNP issue. After analyzing the current rules, and both nonrecurring and recurring cost of deploying LNP, ITC has determined it is in its best interest to file a petition for suspension or modification of the LNP rules and requirements before the SD PUC next week. Because I will be out of the office until mid-week, I anticipate the petition will be available late next week at the commission.

Jerry

RECEIVED

JUN 23 2004

PUC WORKING COPY  
MOSS & BARNETT

M. CECILIA RAY  
612.347.0289  
RayC@moss-barnett.com

MN PUBLIC UTILITIES COMMISSION

Professional Association

4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402-4129  
Telephone 612.347.0300  
Facsimile 612.339.6686  
www.moss-barnett.com

June 23, 2004

VIA MESSENGER

Dr. Burl W. Haar  
Minnesota Public Utilities Commission  
121 Seventh Place East  
Suite 350  
St. Paul, MN 55101-2147

Re: In the Matter of the Petition by the Minnesota Independent Coalition for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 USC § 251(f)(2) - MPUC Docket No.: P-et al/M-04-707 - (12)

In the Matter of the Petition by Winnebago Cooperative Telephone Association for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) - MPUC Docket No. P-571/AM-04-328 - (9)

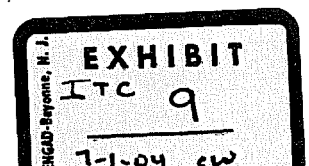
In the Matter of the Petition by Hills Telephone Company and Sioux Valley Telephone Company for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) - MPUC Docket No. P-533, 562/AM-04-655 - (6)

In the Matter of the Petition by Interstate Telecommunications Cooperative for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) - MPUC Docket No. P-515/AM-04-574 - closed

Dear Dr. Haar:

In a filing made on May 10, 2004, on behalf of member companies of the Minnesota Independent Coalition (MIC), Winnebago Cooperative Telephone Association, Hills Telephone Company, Sioux Valley Telephone Company and Interstate Telecommunications Cooperative were identified as participating in the MIC Petition. These four companies were mistakenly included in the MIC filing, and should not be included as petitioners in that Docket. Rather, the Minnesota Public Utilities Commission has already acted on the individual petitions filed by each of the four companies under the additional Docket numbers referenced above.

Accordingly, please remove (or dismiss, as appropriate) Winnebago Cooperative Telephone Association, Hills Telephone Company, Sioux Valley Telephone Company, and Interstate





Dr. Burl Haar  
June 23, 2003  
Page 2

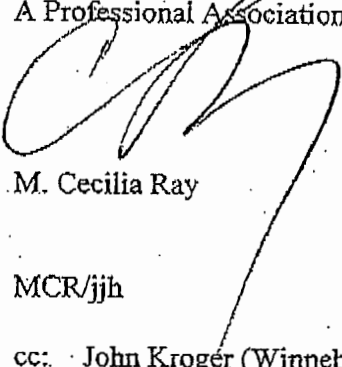
MOSS & BARNETT

A Professional Association

Telecommunications Cooperative from MPUC Docket No.: P-et al/M-04-707. If there are any questions in this regard, please do not hesitate to contact me.

Sincerely,

MOSS & BARNETT  
A Professional Association



M. Cecilia Ray

MCR/jjh

cc: John Krogér (Winnebago)  
Jerry Heiberger (Interstate)  
Don Snyders (Hills)  
Dennis Law (Sioux Valley)  
Thomas Burns  
All parties of record

689613v1

## AFFIDAVIT OF SERVICE

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN )ss.

In the Matter of the Petition by the Minnesota Independent Coalition for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 USC § 251(f)(2) - MPUC Docket No.: P-et al/M-04-707

In the Matter of the Petition by Winnebago Cooperative Telephone Association for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) - MPUC Docket No. P-571/AM-04-328

In the Matter of the Petition by Hills Telephone Company and Sioux Valley Telephone Company for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) - MPUC Docket No. P-533,562/AM-04-655

In the Matter of the Petition by Interstate Telecommunications Cooperative for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2) - MPUC Docket No. P-515/AM-04-574

Kim R. Manney, being first duly sworn on oath, deposes and states that on the 23<sup>rd</sup> day of June, 2004, copies of the attached letter in the above referenced Dockets were hand delivered or mailed by United States first class mail, postage prepaid thereon, to the following:

Dr. Burl W. Haar  
Executive Secretary  
MN Public Utilities Commission  
121 Seventh Place E, Suite 350  
St. Paul, MN 55101

Linda Chavez  
Minnesota Department of Commerce  
85 Seventh Place East, Suite 500  
St. Paul, MN 55101

Curt Nelson  
Assistant Attorney General  
900 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101

Julia Anderson  
Assistant Attorney General  
1400 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101

Sprint Spectrum PCS  
Attention: Scott Freirmuth  
6450 Sprint Parkway  
Mailstop KSOPHN0212  
Overland Park, KS 66251

Sprint Spectrum PCS  
Attention: Jack Weyforth  
6450 Sprint Parkway  
Mailstop KSOPHN0212-2A411  
Overland Park, KS 66251

Midwest Wireless  
Attention: Scott J. Bergs  
2000 Technology Drive  
PO Box 4069  
Mankato, MN 56002-4069

Jason Topp  
Qwest Corporation  
200 South 5<sup>th</sup> Street, Room 395  
Minneapolis, MN 55402

US Cellular  
Lisa Paarfusser  
8410 West Bryn Mawr Avenue, #700  
Chicago, IL 60631

Verizon Wireless  
Dennis L. Myers  
Vice President and General Counsel – Midwest  
Area  
1515 Woodfield Road  
Schaumburg, IL 60173

Charles A. Hoffman  
Maslon Edelman Borman & Brand  
3300 Wells Fargo Center  
90 South 7<sup>th</sup> Street  
Minneapolis, MN 55402-4140

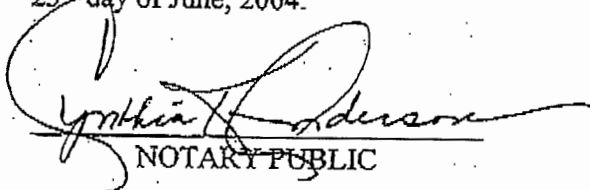
Sprint Spectrum PCS  
Attention: Jeff Adrian  
6580 Spring Parkway  
Mailstop KAOPHW0516-5B360  
Overland Park, KS 66251

Western Wireless Corporation  
Attention: Ron Williams  
3650 131<sup>st</sup> Avenue SE, Suite 400  
Bellevue, WA 98006

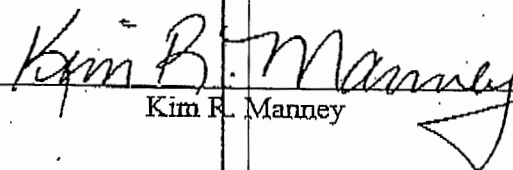
Verizon Wireless  
Linda Godfrey  
2785 Mitchell Drive  
Building 7-1, 7111 G  
Walnut Creek, CA 94598

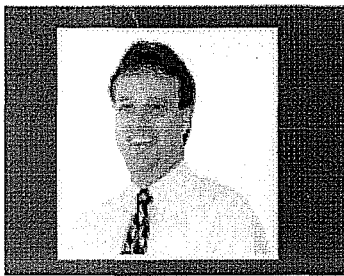
Mark Ayotte  
Philip R. Schenkenberg  
Briggs and Morgan  
2200 First National Bank Building  
332 Minnesota Street  
St. Paul, MN 55101

SWORN TO BEFORE ME this  
23<sup>rd</sup> day of June, 2004.

  
NOTARY PUBLIC



  
Kim R. Manney



# Simple, Honest, Clear The Latest On Local Number Portability

By Jerry Heiberger, General Manager



This month, I thought I would inform you about an issue that my staff, consultants, legal counsel and I have been spending quite a bit of time on over the past few months. The issue I'm referring to, is known within our industry, as Local Number Portability or LNP services.

The Federal Communications Commission (FCC) issued an order on November 10, 2003. This order basically states that if a wireline company, such as your cooperative - ITC, is requested by a wireless company to provide LNP, the wireline company must comply and provide the service within six months of the initial request. The LNP service essentially provides customers the

ability to "port" or transfer his/her wireline phone number to a wireless phone, thus eliminating the need for a wireless phone number or existing wireline service.

Since the FCC issued the order, ITC has received numerous requests from wireless companies to provide the service. Incidentally, we have also received a similar request from a competing wireline company within our service territory. I believe it is important to state that ITC's management and board of directors fully understand that the boundaries of our industry are changing due to technology and regulations. It is our responsibility to continually monitor this

changing landscape and constantly develop solid long term plans that provide for a strong viable future for your cooperative.

ITC has spent some time analyzing the current rules provided in the November 10th order and projected both the nonrecurring and

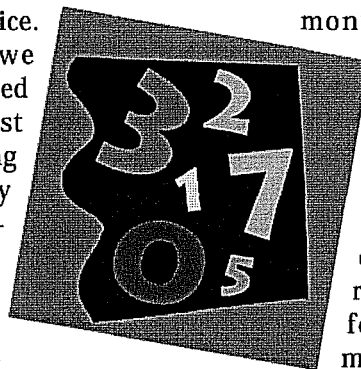
monthly recurring costs to provide LNP service. We believe the projected costs are unreasonable for ITC; and more importantly, for

you, the member to bear. There are too many unanswered questions to implement the service at this time. The FCC must provide further clarification on a

number of key issues before ITC will be forced to implement the service.

Based on our analysis, ITC has determined it is in our best interest to file petitions for suspension or modification of the order with both the South Dakota and Minnesota Public Utility Commissions. Many wireline companies around the country are making similar filings on behalf of their customers. We are all hopeful for favorable outcomes from our respective state commissioners.

I will keep you abreast of this very important issue as our state commissions provide further clarifications and rules in the future. As always, feel free to contact me about this or any other important issue you may have that deals with your cooperative.



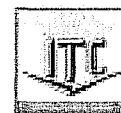
## ITC BOARD OF DIRECTORS

Melvin Johnson	Astoria, SD
Warren Brandlee	Clark, SD
Joel Brandt	Clear Lake, SD
Robert Even	Elkton, SD
Donald Fieber	Goodwin, SD
Dean Nielsen	Hendricks, MN
Roxy Kerkvliet	Bryant, SD
Luverne Cresser	Volga, SD
Milton Pederson	Volga, SD
Merlyn Wookey	Webster, SD
Richard Schiley	Webster, SD
Todd Boyd, Corporate Counsel	Clear Lake, SD

## ITC EMPLOYEES

Jerry Heiberger	General Manager
Reynold Prehelm	Network Operations Manager
Jim Canaan	Support Services Manager
Margery Stava	Customer Service Supervisor
Kathy Weitala	Marketing/IS Supervisor
Mike Donahue	Network Supervisor
Terry Pederson	Outside Plant Supervisor
Todd Morris	Administrative Assistant
Tracy Bandemer	Accounting Services
Amy Vick	Accounting Services
Doug Willemsen	Accounting Services
Jon Lessman	Buildings & Grounds Maintenance
Steve Bohlen	Business Services Technician
Alan Severson	Business Services Technician
Rick Bauer	CARS Administrator
Ted Austerman	Construction Technician
Cory Elmers	Construction Technician
Heath Hinker	Construction Technician
Joel Larson	Construction Technician

Misty Gates	Customer Service Representative
Theresa Gruener	Customer Service Representative
Julie Kasten	Customer Service Representative
Darlene Langerock	Customer Service Representative
Mary Mack	Customer Service Representative
Connie Sawinsky	Customer Service Representative
Kent DeJong	Computer IS Technician
Jeff Rogers	Computer IS Technician
Mark Bearman	Installation & Repair Technician
Derek Benck	Installation & Repair Technician
Lonny Dockendorf	Installation & Repair Technician
Travis Engelkes	Installation & Repair Technician
Chuck Harming	Installation & Repair Technician
Kyle Hendrickson	Installation & Repair Technician
Ray Hjermstad	Installation & Repair Technician
Joshua Schwiesow	Installation & Repair Technician
Brad Mathis	Installation & Repair Technician
Michael Reichmann	Installation & Repair Technician
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Tony Ell	Network Technician
Jay Waage	Network Technician
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Dan	Plant Service Representative
David	Plant Service Representative
Michael	CAD Technician
Technical Assistance Technician	



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Clear Lake, SD 57226-0920

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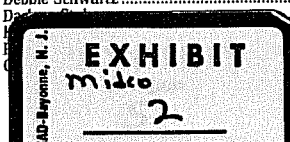
1-800-417-8667

- \* Published monthly for \$.25
- \* Periodicals postage paid at Clear Lake, SD
- \* Kathy Weitala, Editor

## MISSION STATEMENT

"Our mission is to profitably achieve a service quality through cost effectiveness that meets or exceeds members' expectations, yet better than the best offered by competitors; and to offer total telecommunications services that are innovative and competitive."

Postmaster: Send address changes to:  
Interstate Telecommunications Cooperative, Inc.  
P.O. Box 920  
Clear Lake, SD 57226-0920.



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

---

IN THE MATTER OF THE PETITION  
OF BROOKINGS MUNICIPAL UTILI-  
TIES d/b/a SWIFTEL COMMUNICA-  
TIONS FOR SUSPENSION OR MODI-  
FICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-047

**DIRECT PRE-FILED TESTIMONY OF**  
**W. JAMES ADKINS**

May 14, 2004



**DIRECT PRE-FILED TESTIMONY OF  
W. JAMES ADKINS**

**Q: What is your name and address?**

A: My name is W. James Adkins. My business address is 415 4<sup>th</sup> Street, Brookings, South Dakota 57006. My business telephone number is 605-692-6211.

**Q: By whom are you employed and in what capacity?**

A: I am the Technical and Network Operations Manager of Brookings Municipal Utilities d/b/a Swiftel Communications. Swiftel Communications is a municipal independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 14,150 access lines, including an average of 435 "lifeline" access lines within its South Dakota service area, which includes the exchange of City of Brookings.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: Our company has direct interconnection between our wireless business which is branded as Sprint PCS and our wireline switch. We do not provide any blocks of numbers from our company's wireline rate center to any wireless carrier.

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

A: We are a small company with only one exchange. Our service area is defined by the City limits of the City of Brookings, where we have physical cable plant. However, the wireless carriers serve areas by the reach of a radio frequency transmission from a tower site. Their wireless local calling area is much larger than our ex-

1 change boundaries. The boundary of our wireline rate center and the local calling  
2 areas of wireless carriers serving in our area vary greatly.

3 **Q: Does your company provide any Extended Area Service (EAS) plans to its sub-**  
4 **scribers or to a connecting carrier's subscribers?**

5 A: Swiftel Communications provides the following EAS:

6 --Brookings City to the Interstate Telecommunications Cooperative Inc. ex-  
7 changes of Brookings Rural and Sinai.

8 --Brookings City to the Qwest exchange of Volga/Bruce

9 **Q: What is the current method of routing calls from your subscriber's landline**  
10 **phones to wireless phone numbers?**

11 A: There are two methods of routing wireline calls to wireless, dependent upon  
12 whether the wireless number is within our EAS calling area or not.

13 As an example, when a Swiftel wireline customer calls a wireless number that is lo-  
14 cal to our calling area, the call is routed over interconnection trunks, if a local  
15 Sprint PCS call, or over EAS if a local Verizon or Western Wireless call.

16 If the wireless number is not within our EAS calling area, when a subscriber located  
17 in Brookings uses his/her landline phone to call a wireless phone number, the call is  
18 routed from the subscriber's landline phone to the Swiftel Communications central  
19 office switch, where it is determined to be a non-local call and is therefore switched  
20 to a toll trunk group. The toll trunk carries the call to SDN Communication's  
21 (SDN) Centralized Equal Access (CEA) tandem, which is located in Sioux Falls, to  
22 be routed to the appropriate Point of Interconnection (POI) of the wireless carrier.

1   **Q: What is the number of wireless carriers authorized to serve in your company's**  
2   **service area?**

3   A: To my knowledge, eleven (11) Cellular, PCS and SMR wireless carriers are author-  
4   ized to serve City of Brookings d/b/a/ Swiftel Communication's service area, but  
5   only three (3) carriers are currently active in the market (Verizon Wireless, Western  
6   Wireless and Sprint PCS.). Additionally, we believe that Nextel is poised to pro-  
7   vide service to our service area as well and, as such, we have included Nextel in our  
8   analysis.

9   **Q: Have any subscribers requested local number portability (LNP) from your**  
10   **company?**

11   A: To my knowledge, not a single Swiftel Communications subscriber has requested  
12   local number portability.

13   **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever re-**  
14   **quested LNP from your company?**

15   A: No.

16   **Q: Have any wireless carriers submitted bona fide requests for LNP and if so**  
17   **when?**

18   A. Yes. Western Wireless submitted a BFR on November 18, 2003, for Swiftel's host  
19   switch and one remote. Verizon submitted a BFR on January 23, 2004, for  
20   Swiftel's Host switch and two remotes.

21   **Q: Are there any existing capital investments for broadband that will be diverted**  
22   **if your company must deploy LNP?**



1 A: Yes. DSL and broadband services are of utmost importance to our customers. Of  
2 all our new services, our customers are most interested in broadband. We are up-  
3 grading our networks to provide broadband services. Any amount of capital in-  
4 vestment that is diverted to the implementation of LNP will reduce needed capital  
5 from broadband investments. Swiftel Communications is a small company and has  
6 limited resources to fund network investments. We would prefer to serve the real  
7 demands of our customers rather than provide a service that has been mandated by  
8 the FCC that our customers are not requesting.

9 **Q: What will the impact be on Swiftel Communications and its customers if it is**  
10 **required to provide wireless LNP?**

11 A: Swiftel Communications is a small municipal telephone company serving only the  
12 City of Brookings. Therefore, if LNP is required, the cost of implementing LNP  
13 will hit Swiftel and its customers hard. We have few economies of scale in imple-  
14 menting LNP. Exhibit 1 to our Petition shows a \$24 impact per access line. This is  
15 for a service that not a single customer has requested to date. There is little, if any,  
16 demand for LNP in our service area. With little demand there is a substantial bur-  
17 den to pay for the service. Further, the vast majority of our customers will have to  
18 pay for those few, if any, that may decide to port their numbers. It's a very poor  
19 bargain for the majority of our customers.

20 **Q: In your experience as the Operations Manager have you seen increases or ad-**  
21 **ditions to the itemized fees on your customer's telephone bills?**

22 A: Yes. Customers have expressed concern over the rate increases on their bills in re-  
23 cent years. Our customers look at the total amount due and do not differentiate be-

1       tween Swiftel charges and other fees. For many of our residential customers, the  
2       extra charges make up about 45% of their local telephone bill.

3   **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
4       **their bills?**

5   A. The vast majority of our customers will gain no benefit from LNP service. I expect  
6       customers will not be very understanding of the LNP charges and will voice their  
7       protests. It will be difficult for us to provide an explanation of the LNP charges that  
8       our customers will find acceptable. Our Utility Board, which is comprised of citi-  
9       zens of Brookings and customers of Swiftel Communications, has been very sup-  
10      portive of our efforts to obtain a Suspension of the LNP rules.

11   **Q: Do you expect that the costs of implementing LNP could create the necessity of**  
12      **a rate increase for Swiftel Communications?**

13   A. Depending on what costs are recoverable in any LNP end user fees, if the remainder  
14      is significant, Swiftel Communications will not be able to absorb them and may  
15      have to implement a dial tone rate increase to recover any deployment costs.

16   **Q: Do you have any concluding comments?**

17   A Since there are so many unknowns regarding LNP implementation in rural ex-  
18      changes, it makes sense to wait until these unknown issues are resolved, the cost is  
19      reduced, and customer demand develops. In operating our small telephone ex-  
20      change, we have learned that in the acquisition of new telecommunications features  
21      and functions, there is often substantial cost savings to be realized by not deploying  
22      during early phases of introduction. We have found that vendors, once the major  
23      sales have been made, will approach small telephone companies with discounts and

1 incentives to purchase a given feature or functionality. Similarly, when new tele-  
2 communication processes are introduced, we have found that it is much more cost  
3 effective, as well as less disruptive to our customers, if those processes are tested  
4 and deployed in larger markets first, then when proven in, migrated to small mar-  
5 kets such as ours. With LNP, there are so many unanswered questions it clearly  
6 makes sense to save our resources until these questions are answered. Doing so will  
7 save our customers significant dollars and help us provide services they actually  
8 want, such as broadband.

9 **Q: Do you believe that LNP is in the Public Interest?**

10 A: No!

11 **Q: Does this conclude your direct testimony?**

12 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testi-  
13 mony at or before the hearing if I receive additional information pertaining to the  
14 issues I presented herein.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF BROOKINGS MUNICIPAL UTILI-  
TIES d/b/a SWIFTEL COMMUNICA-  
TIONS FOR SUSPENSION OR MODI-  
FICATION OF § 251(b)(2) OF THE  
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Docket No. TC04-047  
  
REBUTTAL TESTIMONY OF  
  
W. JAMES ADKINS

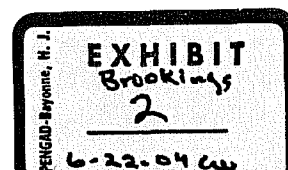
**REBUTTAL TESTIMONY OF**

**W. JAMES ADKINS**

**ON BEHALF OF**

**BROOKINGS MUNICIPAL UTILITIES d/b/a  
SWIFTEL COMMUNICATIONS**

**June 14, 2004**



1 Q. Please state your name, business name and address.

2 A. My name is W. James Adkins. I am the Technical and Network Operations Manager of  
3 Brookings Municipal Utilities d/b/a Swiftel Communications, whose address is 415 4<sup>th</sup>  
4 Street, Brookings, South Dakota, 57006.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wireless).

8 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners “waited 4 months to seek  
9 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
10 their legal obligations.” How do you respond?

11 A. I dispute Mr. Williams’ characterization of events as baseless and inflammatory. Once  
12 the FCC made it clear that wireline carriers would be required to port numbers to wireless  
13 carriers in areas outside the top 100 MSAs by May 24, 2004, Swiftel took immediate  
14 steps to investigate the cost and the processes involved with LNP and to explore its legal  
15 options. Because Swiftel had little experience with LNP, it took time to gather the  
16 pertinent information, inform our Brookings Municipal Utility Board and for them to  
17 make the decision to seek a suspension of the requirement from the South Dakota Public  
18 Utilities Commission. Further, the suspension petition itself took time and effort to  
19 prepare because Swiftel wanted to present as complete a petition as possible with cost  
20 information as complete as possible.

21 Q. Do you agree with Mr. Williams’ statement at page 14, lines 19-22, in which he states  
22 that “LECs will need to route a call to a ported number to the serving tandem” and to Mr.

1 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly  
2 "local calls?"

3 A. In its answer to Interrogatory 4., Western Wireless identifies the "serving tandem" as the  
4 Qwest LATA or local tandem, which is outside of Swiftel's service territory. (Western  
5 Wireless' responses to interrogatories are attached to the rebuttal testimony of Steven E.  
6 Watkins.) Therefore, Mr. Williams' statement is not consistent with Swiftel's current  
7 call routing practices, because it would require Swiftel to route calls to a point outside of  
8 its service territory, other than via an EAS arrangement, as local. I note that in its answer  
9 to Interrogatory 7., Western Wireless admits that there is no requirement for Swiftel to  
10 route calls to the Qwest tandem and currently, Swiftel does not do so. (See Western  
11 Wireless Response to Interrogatory 7 attached to the Rebuttal Testimony of Steven E.  
12 Watkins). Further, Western Wireless admits that its interconnection agreement with  
13 Swiftel does not require Swiftel to route calls to the Qwest tandem. Rather, calls that  
14 terminate outside of Swiftel's service territory, including calls to Western Wireless, other  
15 than via EAS arrangements, are routed to interexchange carriers for termination.  
16 Pursuant to the interconnection agreement, traffic terminating to Western Wireless is  
17 routed to either an interexchange carrier or Interstate Telecommunications Cooperative,  
18 Inc. (ITS) through an EAS arrangement. A diagram showing the current arrangements  
19 for routing traffic is attached hereto as Exhibit 1. Therefore, it appears that Western  
20 Wireless' argument really is a bad faith attempt to change the agreement between the  
21 parties.

22 Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it  
23 is the originating carrier's responsibility to deliver local traffic for termination and that

1 the costs associated with fulfilling that responsibility are not a number portability cost.”

2 What is your response to this statement?

3 A. Mr. Williams’ statements are inconsistent and should be rejected. First he argues that  
4 Swiftel should be required to install new facilities to deliver ported calls to Western  
5 Wireless and other wireless carriers and then he argues that the cost of those facilities are  
6 not number portability costs. Further, as discussed above, Mr. Williams’ suggestion that  
7 it is Swiftel’s responsibility to deliver traffic destined to Western Wireless through a  
8 serving tandem is not consistent with the interconnection agreement between Swiftel and  
9 Western Wireless nor, as admitted by Western Wireless, is there any requirement for  
10 Swiftel to route traffic in this manner.

11 Q. Would Western Wireless’ routing proposal have impacts to Swiftel?

12 A. Yes. It is my understanding that Western Wireless’ proposal would increase Swiftel’s  
13 costs. First, Western Wireless’ proposal would require Swiftel to pay for new facilities  
14 to the tandem provider that it would not need for any purpose other than to route calls to  
15 ported numbers to wireless carriers. Second, Swiftel would most likely have to pay  
16 transit traffic charges to the tandem provider for transporting the traffic to the wireless  
17 carriers. Third, in response to Interrogatory 16.b. Western Wireless indicates that Swiftel  
18 would be required to pay reciprocal compensation on calls to ported numbers, even if  
19 Swiftel does not pay compensation on such calls today. (See Western Wireless Response  
20 to Interrogatory 16.b. attached to the Rebuttal Testimony of Steven E. Watkins).

21 Q. Is there any other impact?

22 A. Yes. Western Wireless’ proposal would create a regulatory arbitrage scenario that could  
23 lead to the loss of access revenues. Today, certain calls to wireless carriers are routed to

1 interexchange carriers. For example, if Swiftel customer A calls Western Wireless  
2 customer B with a 605-360 Western Wireless number, Swiftel customer A incurs a toll  
3 charge. However, under Western Wireless' proposal, it is my understanding that if  
4 Swiftel customer A calls customer B who now has a number ported from Swiftel, Swiftel  
5 customer A would be charged for a local call. Customers may be encouraged to "give  
6 up" their existing wireless numbers and obtain wireline numbers for the sole purpose of  
7 porting that number to avoid toll charges. This is not only a bad public policy result, but  
8 also simply a bad faith attempt to avoid an important contract provision upon which  
9 Western Wireless has already agreed with our company.

10 Q. Does this conclude your rebuttal testimony?

11 A. Yes.



### CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, post-age prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
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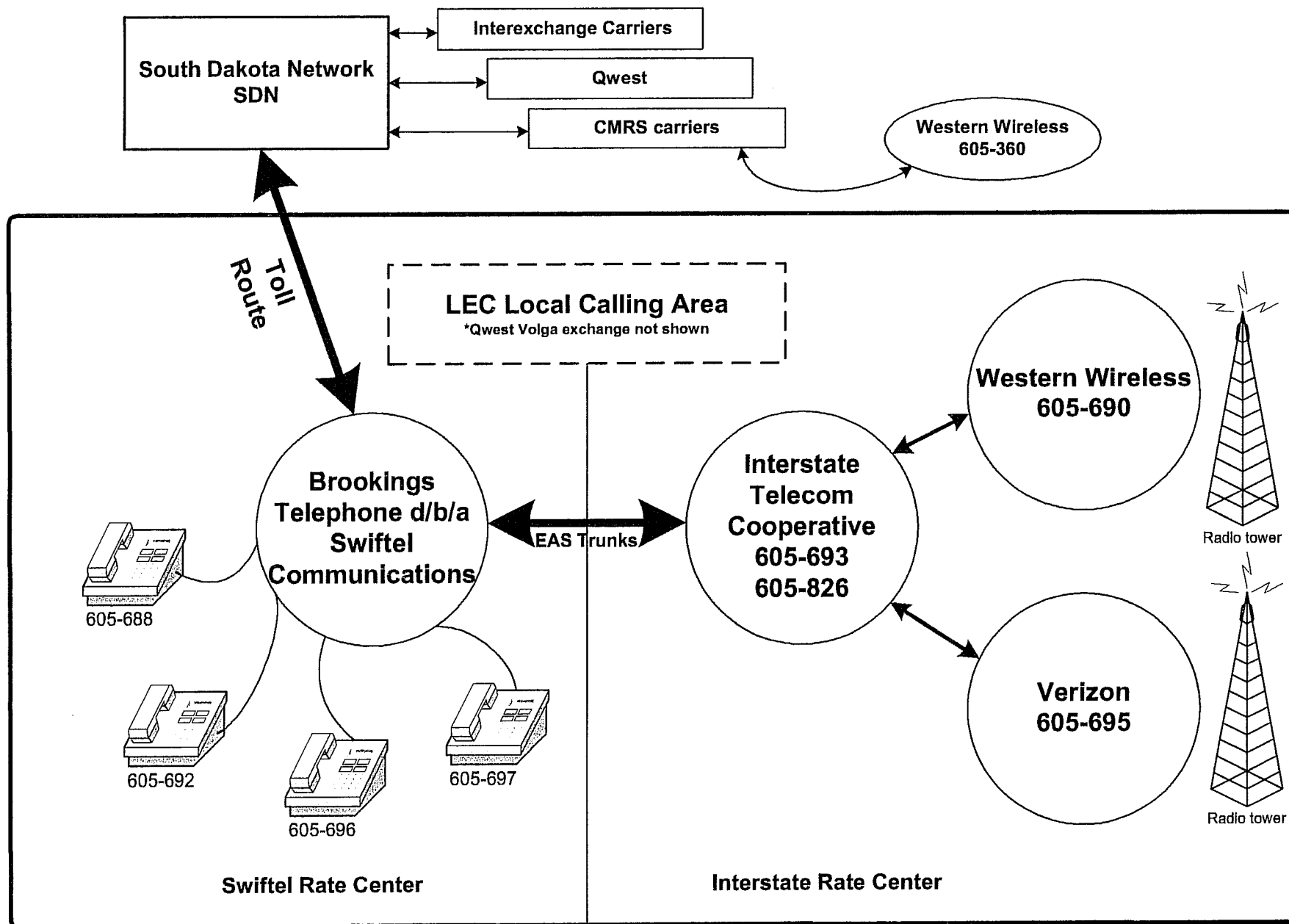
Dated this fourteenth day of June, 2004.

*Richard Helsper by Krista Holman Rogers*  
Richard Helsper  
Glover, Helsper & Rasmussen  
100 22<sup>nd</sup> Ave., #200  
Brookings, SD 57006

## **EXHIBIT 1**

# Routing for CMRS traffic

Exhibit #1



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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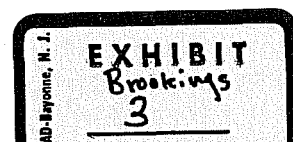
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Docket No. TC04-047

DIRECT PRE-FILED TESTIMONY OF

JOHN DE WITTE

May 14, 2004



**DIRECT PRE-FILED TESTIMONY OF  
JOHN DE WITTE**

**Q: What is your name and address?**

A: My name is John M. De Witte. My business address is 1801 N. Main Street, Mitchell, South Dakota 57301.

**Q: By whom are you employed and in what capacity?**

A: I am the Vice President of Engineering of Vantage Point Solutions, Inc. (VPS). VPS is a telecommunications engineering and consulting firm in Mitchell, South Dakota with a full-time staff of 52 employees. Our client base of VPS is made up of rural independent Local Exchange Carriers (LECs). I focus on assisting the small LECs with nearly all technical and financial aspects of their operations. My direct staff of 13 and I have provided engineering, financial, and regulatory services to many of the South Dakota LECs, as well as LECs in several other states.

**Q: What is your educational and business background?**

A: I received a Bachelors of Science in Computer Engineering (1982) from Iowa State University (Ames, IA) and a Masters of Business Administration (1992) from Kennesaw Sate College (Kennesaw, GA). I am a Registered Professional Engineer in South Dakota and 10 other states.

I have been active in the telecommunications industry since 1983. Previous to VPS, I worked for Martin Group, Inc., based in Mitchell, South Dakota. At Martin Group, I was Assistant Director of Engineering of the Telecom Consulting and Engineering Business Unit, providing engineering and consulting services to rural telecommunications providers throughout the nation. Prior to this, I worked in a variety of engineering, marketing, and management positions at Nortel Networks,

1 Inc., a telecommunications equipment manufacturer in Raleigh, NC and Atlanta,  
2 GA. I am a regular speaker at many state, regional, and national telephone  
3 company organization events, including the National Telephone Cooperative  
4 Association (NTCA) and the Organization for the Promotion and Advancement of  
5 Small Telecommunications Companies (OPASTCO). In this capacity, I often  
6 advise telephone company managers and board members regarding a variety of  
7 technical and financial issues.

8 **Q: On whose behalf are you testifying in this proceeding?**

9 A: My direct pre-filed testimony is submitted on behalf of the City of Brookings  
10 Municipal Telephone Department d/b/a Swiftel Communications.

11 **Q: What is the purpose of your testimony?**

12 A: I will provide testimony on technical and cost issues of implementing LNP that is  
13 pertinent to this hearing.

14 **Q: Are you familiar with current telephone network technologies, including**  
15 **switching equipment, transmission equipment, and outside plant**  
16 **architectures?**

17 A: I have provided engineering and consulting services to more than 100 rural LECs  
18 across the United States. I am familiar with nearly all of the technologies and  
19 architectures of a rural LEC network, including transport equipment, switching  
20 equipment, digital loop carrier equipment, broadband networks, along with copper  
21 and fiber outside plant cable. I have engineered both landline networks and  
22 wireless networks for my clients.

1    **Q: Do you understand the various methods and requirements that are required to**  
2       **support Intramodal (wireline to wireline or wireless to wireless) and**  
3       **Intermodal (wireline to wireless) Local Number Portability?**

4    A: Yes I do.

5    **Q: With the number of variants for LNP, which implementation of LNP is the**  
6       **focus of your testimony?**

7    A: In general, the methodologies, rules, and implementation processes for wireline  
8       Intramodal LNP are clearly defined, have been in place for several years, and are  
9       widely deployed. The methodologies, rules, and implementation processes for  
10       Intermodal (wireline to wireless) LNP and wireless Intramodal have only been in  
11       place since November 2003. Intermodal LNP relating to wireline to wireless ports  
12       will be the focus of my direct testimony.

13   **Q: What unique challenges are presented to a rural Independent Local Exchange**  
14       **Carrier (ILEC) with the implementation requirements of Intermodal LNP?**

15   A: There are several technical and economic issues facing rural ILECs as they evaluate  
16       the implementation of Intermodal LNP. These challenges for the small rural LECs  
17       concern the interconnection of wireless and wireline networks for the purposes of  
18       implementing Intermodal LNP. The Petitioner does not have an existing direct  
19       point of connection to any of the CMRS carriers that have sent a Bona Fide Request  
20       (BFR) to the Petitioner for Intermodal LNP. If there are no direct points of  
21       connection with these wireless carriers, only conventional, switched toll routes  
22       remain; but no translating, routing, rating or cost recovery rules are in place. Some  
23       of the questions that need to be addressed include: (1) where and how should the

1       Petitioner interconnect with the wireless carriers, (2) is the point of interconnection  
2       within the LATA, and (3) how will the Petitioner be able to maintain the original  
3       rate center designation and rating when the number is ported to a point of  
4       interconnection that is located outside the original rate center, when the wireless  
5       service area and the Petitioner's service area vary greatly. These issues are unique  
6       in rural areas, such as the Petitioner's service area, where few, if any  
7       interconnection arrangements exist and there are fewer subscribers in comparison to  
8       metropolitan areas over which to spread the costs of Intermodal LNP. The  
9       uncertainty surrounding these and other questions are likely to cause significant  
10      customer confusion, complaints to the Petitioner and the SDPUC, and the resulting  
11      perception of degraded customer service on the part of the Petitioner's members.  
12      Swiftel Communications has not received a LNP request from a wireline  
13      competitive local exchange carrier (CLEC); therefore Swiftel Communications has  
14      not previously implemented LNP. As a result, numerous upgrades in software and  
15      operational procedures will be required in order to meet the Intermodal LNP  
16      requirements, which will benefit only those few subscribers that choose to leave  
17      Swiftel, while encumbering the entire remaining subscribers with the burden of  
18      funding the porting benefit. In addition, current implementation rules do not  
19      provide the necessary competitive playing field to allow wireless subscribers to port  
20      to Swiftel's wireline services.

21   **Q: What are the anticipated costs of implementing Intermodal LNP?**

22   A: The anticipated costs of implementing Intermodal LNP can be categorized into four  
23      (4) basic areas: 1) Switching related costs, 2) Number Portability Administration



1 Center (NPAC) related costs, 3) Administrative/Technical costs and 4) Transport  
2 Costs. The LNP Petition filed on behalf of Swiftel included an Exhibit detailing the  
3 estimated implementation costs for intermodal LNP. This Exhibit is attached as  
4 Exhibit [1]. Each of the cost elements in these categories will be identified in the  
5 following paragraphs.

#### 6 Switching Related Costs

7 The cost elements in this category include switching generic software upgrades,  
8 LNP software features, prerequisite software features to support the LNP features,  
9 any requisite switch hardware to support the operation of the LNP software, switch  
10 vendor installation costs, vendor software activation fees, and maintenance  
11 expenses attributable to LNP. As part of the cost estimates provided with the  
12 Swiftel Waiver Petition, the cost estimates for this category are detailed as follows:

#### 13 LNP Hardware Requirements

14 Swiftel Communications utilizes a Nortel Networks (Nortel) DMS-100 as its  
15 wireline switching platform. Swiftel has verified with Nortel that the existing  
16 DMS-100 configuration does not require any hardware additions to support the  
17 activation of LNP software. Therefore, Swiftel did not claim any non-recurring or  
18 recurring cost estimates for LNP hardware as part of its estimated costs.

#### 19 LNP Software Features

20 According to Nortel, the Swiftel DMS-100 currently has the generic software load  
21 that will support LNP. The LNP software features have not been activated in  
22 Swiftel's DMS-100. Based on information provided to Swiftel from Nortel, the  
23 non-recurring cost estimate for the LNP software features is \$187,000. Nortel does

1 not charge a recurring Right-To-Use (RTU) fee for these features. Based on the  
2 information provided by Nortel, Swiftel claimed \$187,000 for LNP software  
3 features and did not claim any recurring cost estimates for LNP software as part of  
4 its estimated costs.

#### 5 Additional Software Features

6 Swiftel has verified with Nortel that the existing DMS-100 configuration does not  
7 require any pre-requisite software additions to support the activation of LNP  
8 software. Therefore, Swiftel did not claim any non-recurring or recurring cost  
9 estimates for additional LNP software as part of its estimated costs.

#### 10 Additional Vendor Fees

11 Swiftel has verified with Nortel that the activation fees associated with the  
12 activation of the LNP Software Features are included with the planning pricing  
13 provided with the LNP Software Features. Therefore, Swiftel did not claim any  
14 non-recurring or recurring cost estimates for Additional Vendor Fees as part of its  
15 estimated costs.

#### 16 Initial LNP Translations

17 There are several activities that are required to initially set up and test the basic  
18 translations for LNP. The non-recurring initial translations cost estimates were  
19 based on the anticipated fees to data-fill and test basic LNP functionality in the  
20 Petitioner's switching system. This testing includes coordination of testing with the  
21 SOA provider, coordination of testing with any transiting carriers, verification of  
22 proper LNP dip activities, verification of billing system interaction, and other  
23 translations activities. This cost estimate is approximately \$25,000. In order to

1 allow time for coordination of testing with other entities, it is assumed that the  
2 initial translations testing will require approximately four (4) man-weeks of  
3 translations activities by a 3<sup>rd</sup> party technical consultant at a loaded hourly rate of  
4 \$100 per hour. The remaining portion of this cost estimate includes travel, living  
5 and other miscellaneous expenses.

#### 6 Technical Implementation and Testing

7 There are several activities that are required to initially set up and test the basic  
8 translations for each CMRS carrier requesting Intermodal LNP. The non-recurring  
9 technical implementation and testing cost estimates were based on the anticipated  
10 fees to data-fill and test specific Intermodal LNP functionality in the Petitioner's  
11 switching system. The non-recurring technical implementation and testing cost  
12 estimates were based on performing number porting tests individually associated  
13 with each CMRS to ensure that the ported number route correctly flows through the  
14 Petitioner's network. As the FCC has not required a formal Interconnection  
15 Agreement, it is assumed that the Petitioner will be responsible for performing these  
16 tests in order to ensure proper call routing. This cost estimate was based on \$5,000  
17 for each CMRS Carrier. The cost estimate is based on 40 hours of testing at \$100  
18 per hour by a 3<sup>rd</sup> party resource including travel and living expenses.

#### 19 NPAC Related Costs

20 The cost elements in this category include Service Order Administration (SOA)  
21 costs, LNP Query costs, and connection costs with the LNP database. As part of  
22 the cost estimates provided with the Swiftel Waiver Petition, the cost estimates for  
23 this category are detailed as follows:

1       Service Order Administration

2       As part of the LNP implementation process, the Petitioner must select a provider to  
3       administer updates to the Number Portability Administration Center (NPAC) LNP  
4       database. In anticipation of reduced porting intervals in the future, the Petitioner  
5       has elected to include the costs for an automated SOA system. The SOA cost  
6       estimates were based a compilation of SOA services price lists from several firms  
7       providing automated SOA services. These cost estimates represent the anticipated  
8       start-up costs and recurring costs levied by the SOA provider to utilize its  
9       automated services to update the LNP databases. The sample pricing scenarios  
10      were obtained under Non Disclosure Agreement (NDA) from several SOA services  
11      providers. As the Petitioner has not entered into any contracts with these or any  
12      SOA entities, firm pricing cannot be provided. As an estimate, the non-recurring  
13      SOA costs were assumed to be \$2,000 with the recurring SOA costs assumed to be  
14      \$2,625. Should the Petitioner enter into a contract with an automated SOA  
15      provider, these cost estimates can be revised.

16      LNP Query Charges

17      With the implementation of LNP, the Petitioner will incur charges for each LNP  
18      query launched for its subscribers. The LNP query cost estimates were based on a  
19      compilation of SOA services price lists from several firms providing automated  
20      SOA services. The sample pricing scenarios were obtained under NDA from  
21      several SOA Services providers. As the Petitioner has not entered into any  
22      contracts with these or any SOA entities, firm pricing cannot be provided. The non-  
23      recurring LNP Query cost estimate represents the anticipated start-up costs levied

1 by the SOA provider to utilize its services to dip its database. This initial set-up  
2 charge is assumed to be \$1,000. The recurring LNP Query cost estimates were  
3 based on the assumption that each of the Petitioner's access lines would generate  
4 seven (7) to eight (8) call attempts per day; each of the call attempts would generate  
5 an LNP query. The query charge is assumed to range between \$0.001 and \$0.0005  
6 per query. Based on these assumptions, the recurring LNP Query charge was  
7 assumed to be \$2,500. Should the Petitioner enter into a contract with an automated  
8 SOA provider, these cost estimates can be revised.

9 Connection Costs w/LNP Database

10 With the implementation of LNP, the Petitioner will incur set-up charges levied by  
11 the SOA provider to enter its NECA Operating Company Number (OCN) and Point  
12 codes for each switch launching LNP queries to the SOA's LNP database. The  
13 non-recurring connection costs with LNP database estimate was based on a  
14 compilation of SOA services price lists from several firms providing automated  
15 SOA services. The sample pricing scenarios were obtained under NDA. As the  
16 Petitioner has not entered into any contracts with these or any SOA entities, firm  
17 pricing cannot be provided. The cost estimate for this element was estimated at  
18 \$600 assuming a maximum of four (4) point codes at \$150 per point code. Should  
19 the Petitioner enter into a contract with an automated SOA provider, this cost  
20 estimate can be revised.

21 Technical and Administrative Costs

22 The cost elements in this category include testing and verification of each ported  
23 DN, translations for each ported DN, administrative cost estimates, regulatory cost

1 estimates, customer care cost estimates, and marketing cost estimates. As part of  
2 the cost estimates provided with the Swiftel Waiver Petition, the cost estimates for  
3 this category are detailed as follows:

4 Testing and Verification of Each Ported Dial Number

5 This cost estimate addresses the anticipated activities to test each “ported out”  
6 directory number (DN) to verify the proper routing of the DN. The recurring  
7 Testing/Verification cost estimates were based on 1.25 hours per port at the  
8 Petitioner’s loaded technical labor costs of \$40 per hour.

9 Per Port Translations

10 This cost estimate addresses the anticipated translations activities to “port out” each  
11 DN. The recurring translations cost estimate was based on the Petitioner’s loaded  
12 technical labor costs of \$20 per port. The loaded dollar rate is based on Swiftel’s  
13 estimated loaded dollar rate of \$40 per hour.

14 Administrative Costs

15 The implementation of LNP will require Swiftel to implement new administrative  
16 policies and procedures. The non-recurring administrative cost estimates were  
17 based on providing LNP process training for the Petitioner’s administrative  
18 personnel. The training is assumed to be provided by the entity providing  
19 automated SOA services. The Petitioner has not selected a SOA provider at this  
20 time. The non-recurring costs estimates are based on a one-week onsite customer  
21 service representative training class, including the instructor’s travel and living  
22 expenses. This cost is assumed to be \$10,000. The recurring administrative cost  
23 estimate addresses the anticipated administrative activities required with entry of

1 the ported number into the SOA system. The recurring administrative cost  
2 estimates were based on the Petitioner's loaded administrative labor costs of \$25  
3 per port. The loaded dollar rate is based on Swiftel's estimated loaded dollar rate of  
4 \$40 per hour.

#### 5 Regulatory Costs

6 This cost element is associated with the Petitioner's Legal Fees and Regulatory  
7 Consulting fees. The legal fees are associated with the Petitioner's attorneys. The  
8 anticipated fees are associated with reviewing the legal aspects of LNP filings and  
9 LNP implementation. The regulatory consulting fees are typically associated with  
10 the updates required to various National databases (NECA Tariff 4, Telcordia  
11 LERG, etc.) and the possible assistance with the completion of the NECA End User  
12 Charge worksheets. This cost is estimated at 150 hours at an average rate of \$150  
13 per hour and includes \$2,500 in travel, living, and miscellaneous expenses. Based  
14 on the legal activities required to implement LNP, the Petitioner may revise this  
15 figure at a later date.

#### 16 Customer Care Costs

17 The implementation of LNP will require Swiftel to implement new customer care  
18 policies and procedures. The non-recurring customer care cost estimates were  
19 based on providing LNP customer care training for the Petitioner's administrative  
20 personnel. The training is assumed to be provided by the entity providing the  
21 Petitioner's billing platform services. The Petitioner has not developed the  
22 Customer Care and Billing processes for LNP at this time. The costs estimates are  
23 based on a one-week onsite Operational Support Services (OSS) training class. The

1 recurring customer care cost estimates were based on the loaded administrative  
2 labor costs of \$20 per port. The loaded dollar rate is based on Swiftel's estimated  
3 loaded dollar rate of \$40 per hour. This cost estimate addresses the anticipated  
4 administrative activities required with updating the Petitioner's customer care and  
5 billing system and to track the "ported out" DNs.

6 Marketing and Informational Flyer Cost Estimates

7 The implementation of LNP will likely generate subscriber confusion from the  
8 addition of an End User Charge for the implementation of LNP. The Petitioner  
9 plans to develop an informational flyer to help educate the subscriber base by  
10 explaining LNP and the reasons for the proposed LNP End User Charge appearing  
11 on the subscribers' monthly local service bill. The non-recurring marketing and  
12 informational flyer cost estimates were based on the costs required to develop an  
13 informational flyer and billing insert explaining LNP and any end-user fees that  
14 may apply. The total non-recurring estimated costs in this category were expressed  
15 as a "per access line cost" and were estimated at \$1.50 per subscriber. This cost  
16 estimate includes the development of the explanatory LNP text, the graphic design  
17 artwork, and first run printing costs. The recurring marketing and informational  
18 flyer cost estimates were based on \$2.50 per subscriber for volume print costs,  
19 handling, and mailing the periodic flyer/bill insert. This recurring  
20 marketing/informational flyer cost estimate was amortized over 12 months to arrive  
21 at an estimated monthly fee for the Cost Exhibit.



1       Billing/Customer Care Software Updates

2       The Petitioner's billing and customer care system will require software upgrades to  
3       support LNP. The non-recurring billing and customer care software upgrade cost  
4       estimates represents the anticipated costs to upgrade the Petitioner's billing system  
5       to accommodate LNP functionality. This upgrade was estimated as an allocated  
6       cost of the Petitioner's annual billing system upgrade

7       Transport-Related Cost Estimates

8       The cost elements in this category include the estimated costs of transport to  
9       connect the Petitioner's exchange with the CMRS carriers, anticipated cost  
10      estimates for transiting CMRS connections, and anticipated cost estimates for pass-  
11      through N-1 Tandem LNP queries. As part of the cost estimates provided with the  
12      Swiftel Waiver Petition, the cost estimates for this category are detailed as follows:

13      Transport Cost Estimates

14      The Petitioner will require direct Type 2B DS1 transport facilities from the  
15      Petitioner's exchange to each CMRS provider's Point of Interconnection (POI) for  
16      those CMRS carriers requesting intermodal LNP. The Petitioner does not possess  
17      POI information for each CMRS carrier. The non-recurring wireless carriers POI  
18      cost estimates represent the costs associated with providing a Type 2B DS1 span to  
19      each CMRS provider. As stated in the Petition, the Petitioner assumes  
20      interconnection will be required with four (4) CMRS carriers. The Petitioner  
21      estimates that the non-recurring transport costs for each CMRS will be  
22      approximately \$5,000. This cost estimate includes the switch DS1 interface  
23      hardware and supporting equipment required to place a DS1 span into service. The

1 recurring wireless carriers POI cost estimates were based on monthly transport lease  
2 cost estimates. As stated in the Petition, the Petitioner assumes interconnection will  
3 be required with four (4) CMRS carriers. One of the carriers is Sprint PCS. The  
4 recurring transport costs for Sprint PCS will be approximately \$400 per month.  
5 The recurring transport costs for the other CMRS carriers are estimated at \$800 per  
6 month. These cost estimates were based on oral estimates from SDN  
7 Communications assuming a POI in Brookings, SD for Sprint PCS and a POI in  
8 Sioux Falls, SD for the other CMRS carriers. These recurring transport cost  
9 estimates may be revised once POI information is provided by the CMRS carriers  
10 and firm pricing can be provided by a transport provider (such as SDN  
11 Communications or Qwest).

12 Mobile Telephone Switching Office (MTSO) POI Connection Cost Estimates

13 The Petitioner does not possess POI information for the CMRS carriers that have  
14 provided a Bona Fide Request (BFR) to the Petitioner for intermodal LNP. The  
15 possibility exists that a transiting carrier (such as Qwest or SDN Communications)  
16 may establish Type 2B DS1 connections with one or more of the CMRS carriers.  
17 The MTSO POI connection cost estimates represent the anticipated costs for the  
18 Petitioner's share of this connection, if required. The non-recurring MTSO POI  
19 connection cost estimates were based on an estimate of the start-up costs to utilize a  
20 transiting carrier for CMRS MTSO connections, if required. The recurring MTSO  
21 POI connection cost estimates were based on the Petitioner's anticipated share of  
22 monthly lease for the transiting carrier MTSO POI connection cost estimates. If the  
23 CMRS carriers elect to directly connect with the Petitioner (without a transiting

1 carrier) on a direct Type 2B DS1 connection to the CMRS' Mobile Switching  
2 Telephone Office (MTSO), these cost estimates will likely be not applicable.

3 Transiting Non-Recurring Dip (Minimum) Cost Estimates

4 This cost estimate was based on the assumption that the transiting carrier may need  
5 to perform some LNP queries when the Petitioner's N-1 carrier fails to do so. The  
6 transiting non-recurring dip cost estimate describes the anticipated costs of the non-  
7 recurring set-up charges to enable the Petitioner to receive dip charges from a  
8 transiting carrier, such as SDN Communications. The initial setup charges are  
9 likely to be passed on to Petitioner. The transiting carrier recurring dip cost  
10 estimates describe the anticipated costs of the minimum dip charges from a  
11 transiting carrier. These charges are likely to be passed on to Petitioner. If the  
12 CMRS carriers elect to directly connect with the Petitioner (without a transiting  
13 carrier) on a direct Type 2B DS1 connection to the CMRS' Mobile Switching  
14 Telephone Office (MTSO), these cost estimates will likely be not applicable.

15 **Q: It appears that one of the larger estimated costs projected for the**  
16 **implementation of Intermodal LNP relates to transport costs. What**  
17 **considerations concerning compensation for transport costs are applicable to**  
18 **the implementation of Intermodal LNP?**

19 **A:** With regard to the direct Type 2B connections to the wireless carriers described in  
20 the preceding cost estimates, these cost estimates are identified as required  
21 connections to allow Intermodal LNP to function correctly within the Petitioner's  
22 existing billing and customer care systems.

1 **Q: If no direct Type 2B DS1 facilities are available for interconnection with the**  
2 **CMRS carriers, what happens for Swiftel?**

3 A: Without direct Type 2B facilities, the ported calls will be routed based on the Local  
4 Routing Number (LRN) delivered with the LNP query. The LRN will contain the  
5 NPA-NXX of the wireless carrier. Based on this NPA-NXX, these calls will be  
6 routed as toll calls over Swiftel's existing toll routes to Swiftel's Access Tandem  
7 (SDN Communications).

8 **Q: In your opinion, are the proposed Type 2B DS1 facilities to each CMRS carrier**  
9 **cost justified?**

10 A: Without actual traffic data, it is impossible to determine the feasibility of a  
11 particular facility. However, based on the anticipated traffic levels generated by the  
12 projected intermodal LNP ports, it appears that the construction of these facilities is  
13 not cost-justified. If the facilities were feasible, it is likely that the wireless carriers  
14 would have implemented them already as they have in other areas. Based on the  
15 projected traffic levels, it appears that the direct facilities between Petitioner and the  
16 wireless carriers required for LNP would be highly under-utilized and very  
17 inefficient.

18 **Q: It appears that some of the anticipated cost estimates are based on the quantity**  
19 **of anticipated numbers that would be ported to a CMRS carrier. How was the**  
20 **number of ports determined?**

21 A: The quantity of projected ports is a function of the competitive environment in the  
22 proposed service area, the number of CMRS carriers, and other statistical data.  
23 The data that is currently available concerning porting activity for CMRS carriers

1 on a wide-scale basis is limited. It is my understanding that no Petitioner  
2 customer has ever made an inquiry to Petitioner regarding LNP or a request for  
3 LNP. With respect to wireless LNP nationwide, to date, the demand for wireless  
4 porting has been far less than expected and most ports have been from one  
5 wireless carrier to another. Wireline to wireless porting appears to be a small  
6 fraction of wireless porting in general.<sup>1</sup> According to NeuStar, 95% of wireless  
7 ports have been from one wireless carrier to another and only 5% of wireless ports  
8 were between wireline and wireless carriers.<sup>2</sup> With the rural nature of the  
9 Petitioner's service area and the competitive environment with respect to  
10 coverage of the Petitioner's existing service area by the existing wireless carriers,  
11 I believe that the percentage would be even smaller than in other more urban parts  
12 of the nation. For purposes of the cost exhibit, approximately four (4) intermodal  
13 ports per month were estimated,<sup>3</sup> which is well under five (5) percent of  
14 Petitioner's access lines. Accordingly, there appears to be little, if any, demand  
15 for LNP and, absent such demand, no public benefit will be derived from LNP.  
16 Even if some level of LNP demand develops in the future, the total  
17 implementation costs that would be incurred by Petitioner to implement and  
18 maintain LNP would require re-evaluation based on the customer demand,  
19 quantity of ports, and the revised estimated costs for the required LNP  
20 infrastructure elements.

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<sup>1</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.

<sup>2</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p. 4 (March 9, 2004)

<sup>3</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that between one percent (1%) and three percent (3%) are intermodal.

1   **Q: Will any of the Petitioner's estimated costs change if the number of estimated**  
2       **ports is changed?**

3   A: Yes. There are several of the estimated recurring costs that are driven by the  
4       number of ports. These cost elements include the recurring translations costs, the  
5       recurring testing and verification of each ported number, the recurring  
6       administrative cost estimates, and the recurring customer care costs. If the  
7       projected number of ports increases, these costs will increase. If the number of  
8       projected ports decreases, these costs will decrease.

9   **Q: The current porting interval is currently four (4) days. If the porting interval**  
10       **were shortened to two (2) days or less, what effect, if any, would this shortened**  
11       **interval have on the estimated costs?**

12   A: The current industry experience with Intermodal porting is has not been without  
13       implementation issues. Significant problems meeting the current four (4) day  
14       porting interval have been reported. Assuming that the implementation issues are  
15       refined to the point where a shorter porting interval can be supported, the Petitioner  
16       has included the known cost elements to support a shorter porting interval. The  
17       Petitioner has assumed the use of an automated SOA system as part of their  
18       anticipated LNP implementation costs. An automated SOA system will allow the  
19       Petitioner to accommodate an electronic request and acknowledgement for the  
20       ported numbers. Therefore, the Petitioner does not anticipate any increases in its  
21       SOA related non-recurring or recurring cost estimates. It is possible that additional  
22       recurring costs in the areas of translations, technical implementation, testing,  
23       verification, customer care, and administrative would occur if the porting interval

1        were to be reduced to require that porting activities occur outside of the standard  
2        business day (expedited requests, nights, weekends, and holidays). If porting is  
3        required during these times, additional loaded labor rates will be incurred. If the  
4        porting requirements are confined to the standard business day, the Petitioner does  
5        not anticipate any additional recurring LNP costs. However, it is possible that  
6        unforeseen requirements could require additional charges.

7        **Q: Are there any other potential costs that could impact Swiftel with the**  
8        **implementation of Intermodal LNP?**

9        A: If Swiftel must implement intermodal LNP, all carriers with EAS arrangements  
10       with Swiftel and their customers will be impacted because the other carrier will  
11       have to LNP dip all EAS calls. This would increase the cost of EAS between  
12       Swiftel and the other carrier and could result in a loss of EAS options to the  
13       customer or an increase in the cost of optional EAS service.

14       **Q: Some telecommunications industry analysts have suggested that Foreign**  
15       **Exchange Service (FX) could be used to provide connections to accommodate**  
16       **intermodal LNP. Is this a reasonable alternative?**

17       A: There have been industry discussions of using an FX service for Intermodal LNP  
18       interconnection. An FX service is a line appearance that is extended from the  
19       "home" exchange to a "foreign" exchange using dedicated point-to-point facilities.  
20       The FX service is engineered on a per line basis. It is not a common trunk that can  
21       be used by a carrier for routing purposes. With an FX service, the LEC has  
22       customers and facilities in one rate center and provides service to customers in  
23       another rate center using the same "home" number block. To do this, facilities are

1 extended from the LEC rate center to the foreign rate center where the customer  
2 resides. It is important to note that the customer pays for the use of these facilities.  
3 The LEC is compensated for their facilities and lost toll revenue through these  
4 customer charges. It is unknown exactly how an ILEC would implement an FX  
5 service to accommodate Intermodal LNP. The exact connectivity, rate elements,  
6 and network configuration for the proposed Intermodal LNP FX service appear to  
7 be undefined. As such, any discussion of using FX as a viable transport alternative  
8 for Intermodal LNP transport is purely speculation.

9 **Q: You have addressed several estimated costs for Intermodal LNP. How would**  
10 **these cost estimates change if Petitioner must implement only Intramodal**  
11 **(wireline to wireline) LNP?**

12 **A:** All cost elements would stay the same but amount of the cost estimates could  
13 change. It is my understanding that both wireline providers would be in the same  
14 rate center. Accordingly, the primary change in the estimated costs would be in the  
15 area of transport costs. The petitioner estimates that these costs would likely be  
16 significantly reduced. Intramodal LNP has clearly defined processes for the  
17 exchange of traffic between the respective wireline carriers competing in a clearly  
18 defined rate center. In the intramodal LNP cases with which I am familiar the  
19 carriers have entered into an Interconnection Agreement. The Intramodal  
20 Interconnection Agreement addresses the methods and compensation that will be  
21 used to establish interconnection and exchange traffic between the wireline carriers.  
22 The compensation for the traffic volumes is typically in the form of reciprocal  
23 compensation. In addition, the recurring costs for testing of each ported number



1 would likely be reduced since the dialing plans and routing between the carriers will  
2 likely not change on a regular basis. The reduction of these costs is dependent upon  
3 the volume of ports. The remaining costs will likely be unchanged.

4 **Q: What would be the timeframe required for the Petitioner to fully implement,**  
5 **test and place Intermodal LNP into commercial service, if required to do so?**

6 A: Please refer to the LNP Implementation Timeline, attached hereto as Exhibit [2].

7 The Timeline details the individual, inter-dependent tasks necessary to fully  
8 implement Intermodal LNP. They are arrayed in a self-explanatory fashion,  
9 showing the anticipated duration of each task and its relationship to other tasks.

10 The overall duration that results for the Timeline supports that approximately six  
11 (6) months would be required to fully prepare for, implement, test and place  
12 Intermodal LNP into commercial service, as stated in the Swiftel Waiver Petition.

13 As with any planning horizon, this timeline does not take into account holidays or  
14 other unforeseen delays due to Force Majure.

15 **Q: Does this conclude your direct testimony?**

16 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct  
17 testimony at or before the hearing if I receive additional information pertaining to  
18 the issues I presented herein.

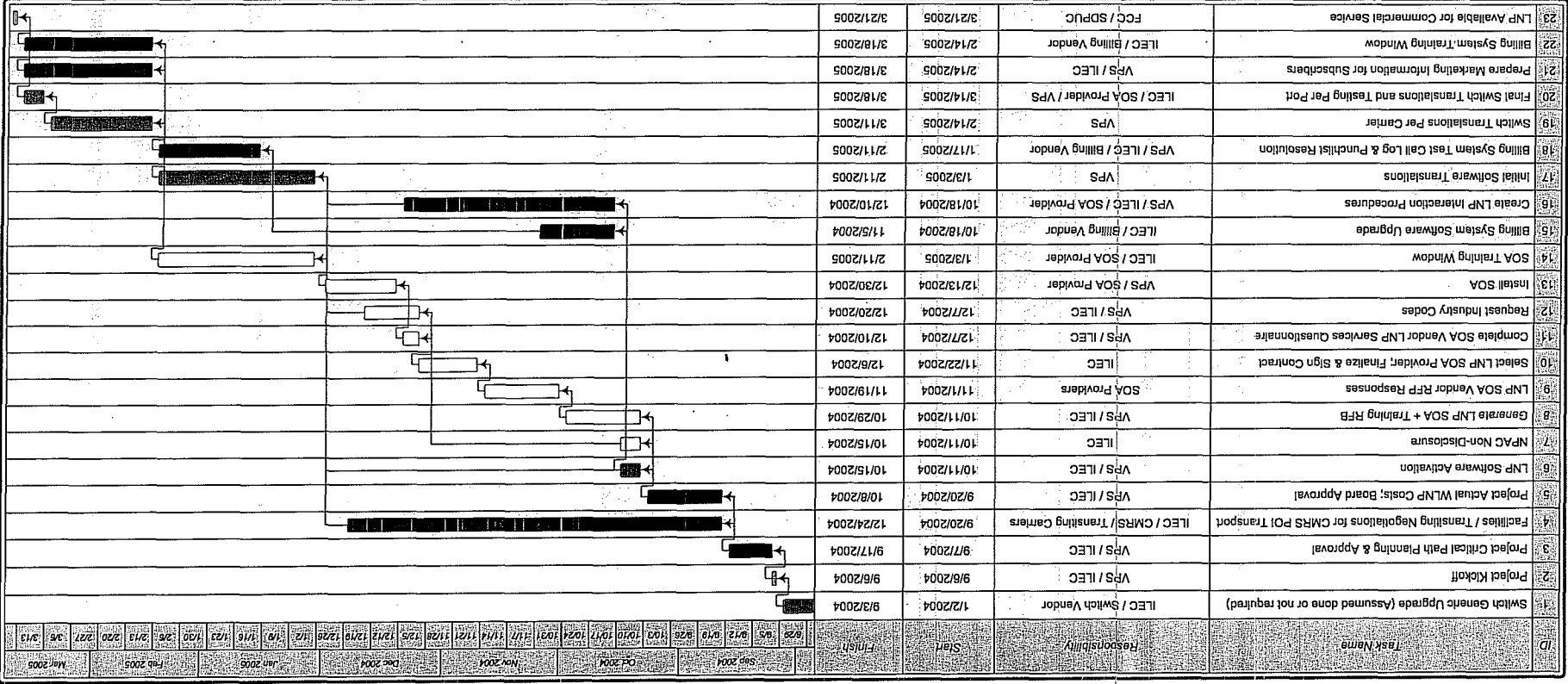
## BROOKINGS MUNICIPAL UTILITIES (D.B.A SWIFTEL COMMUNICATIONS, INC.)

## ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 187,000		
Additional Software Features	\$ -		
Additional Vendor Fees	\$ -		
Translations	\$ 25,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 20,000		
<b>Subtotal</b>	<b>\$ 232,000</b>		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 2,000	\$ 2,625	
LNP Queries	\$ 1,000	\$ 2,500	
Connection Costs w/LNP Database	\$ 600	\$ -	
<b>Subtotals</b>	<b>\$ 3,600</b>	<b>\$ 5,125</b>	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 200	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 80	Translations Costs - Ported Numbers
Administrative	\$ 10,000	\$ 100	
Regulatory	\$ 25,000	\$ -	
Customer Care	\$ 10,000	\$ 80	
Marketing/Informational Flyer	\$ 20,000	\$ 3,000	
Billing/Customer Care Software Upgrades	\$ 6,000	\$ -	
<b>Subtotals</b>	<b>\$ 71,000</b>	<b>\$ 3,460</b>	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carriers Point of Interconnection (POI)	\$ 20,000	\$ 2,800	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 21,000</b>	<b>\$ 3,100</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>	<b>\$ 327,600</b>	<b>\$ 11,685</b>	
<b>Current Access Lines</b>	<b>14,057</b>	<b>14,057</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>	<b>\$ 24</b>	<b>\$ 1</b>	

# Exhibit 2

## LNP Implementation Timeline



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

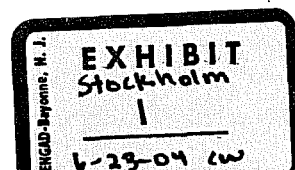
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IN THE MATTER OF THE PETITION  
OF STOCKHOLM-STRANDBURG  
TELEPHONE COMPANY FOR SUS-  
PENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-062

**DIRECT PRE-FILED TESTIMONY OF  
MARJORIE NOWICK**

May 14, 2004



**DIRECT PRE-FILED TESTIMONY OF  
MARJORIE NOWICK**

**Q: What is your name and address?**

A: My name is Marjorie Nowick. My business address is P. O. Box 20, Stockholm, SD 57264-0020. My business telephone number is (605) 676-2311.

**Q: By whom are you employed and in what capacity?**

A: I am one of the owners and the Office Manager of Stockholm-Strandburg Telephone Company (SSTC). SSTC is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 714 access lines within its South Dakota service area, which includes the exchanges of Stockholm, Reville, and South Shore.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: No.

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

A: We are a small company with only three exchanges. Our service areas are defined by where we have physical cable plant. However, the wireless carriers serve by the reach of a radio frequency from a tower site. Their wireless local calling area is often much larger than our exchange boundaries. The boundaries of our wire/rate centers and the local calling areas of wireless carriers serving in our area vary greatly.

1 **Q: Does your company provide any Extended Area Service (EAS) plans to its**  
2 **subscribers or to a connecting carrier's subscribers?**

3 A: SSTC provides the following EAS:

4 Stockholm subscribers (605-676) have EAS to Milbank (605-432).

5 Revillo subscribers (605-623) have EAS to Milbank (605-432).

6 South Shore subscribers (605-756) have EAS to Watertown (605-882, 605-884,  
7 605-886, 605-881).

8 **Q: What is the current method of routing calls from your subscriber's landline**  
9 **phones to wireless phone numbers?**

10 A: As an example, when a subscriber located in Stockholm uses his/her landline phone  
11 to call a wireless phone number, the call is routed from the subscriber's landline  
12 phone to the Stockholm central office switch, where it is determined to be a non-  
13 local call and is therefore switched to a toll trunk group. The toll trunk carries the  
14 call to SDN Communication's (SDN) Centralized Equal Access (CEA) tandem,  
15 which is located in Sioux Falls, to be routed to the appropriate Point of  
16 Interconnection (POI) of the wireless carrier.

17 **Q: What is the number of wireless carriers authorized to serve in your company's**  
18 **service area?**

19 A: To my knowledge, five (5) wireless carriers are authorized to serve in SSTC's  
20 service area (Verizon Wireless, Western Wireless, Sprint PCS, Nextel, and RCC  
21 Minnesota Inc.).

22 **Q: Have any subscribers requested local number portability (LNP) from your**  
23 **company?**

1 A: To my knowledge, not a single SSTC subscriber has requested local number  
2 portability from SSTC. Further, there was considerable press and TV coverage in  
3 our service area about this issue when the FCC first issued its November 10 Order.

4 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
5 **requested LNP from your compay?**

6 A: No.

7 **Q: Have any wireless carriers submitted bona fide requests for LNP and if so**  
8 **when?**

9 A: Yes. Western Wireless (December 2003) and RCC Minnesota, Inc. & Wireless  
10 Alliance, d/b/a Unicell (April 2004).

11 **Q: Are there any existing capital investments for broadband that will be diverted**  
12 **if your company must deploy LNP?**

13 A: Yes. DSL and broadband services are of utmost importance to our customers. Of  
14 all our new services, our customers are most interested in broadband. We are  
15 upgrading our networks to provide broadband services. Any amount of capital  
16 investment that is diverted to the implementation of LNP will reduce needed capital  
17 from broadband investments. SSTC is a small company and has limited resources  
18 to fund network investments. We would prefer to serve the real demands of our  
19 customers rather than provide a service that has been mandated by the FCC that our  
20 customers are not requesting.

21 **Q: What will the impact be on SSTC and its customers if it is required to provide**  
22 **wireless LNP?**

1 A: SSCT is a small rural company with a small customer base. Therefore, if WLNP is  
2 required, the cost of implementing WLNP will hit SSCT and its customers very  
3 hard. We have few economies of scale in implementing WLNP. Exhibit 1 to our  
4 Petition showed a \$16 impact per access line. However, the exhibit has since been  
5 revised to reflect an additional CMRS provider in the area, among other items.  
6 Therefore, the revised Exhibit 1 now shows a \$24 impact per access line. This is  
7 for a service that not a single customer has requested to date. There is little, if any,  
8 demand for WLNP in our service area. With little or no demand, there would be a  
9 substantial burden to pay for the service. Further, the vast majority of our  
10 customers will have to pay for those few, if any, who may decide to port their  
11 numbers. It's a very poor bargain for the majority of our customers.

12 **Q: In your experience as the office manager of SSTC, have you seen increases or**  
13 **additions to the itemized fees on your customer's telephone bills?**

14 A. Yes. Most customers tell me there have been too many new fees or fee increases on  
15 their bills in recent years. We received a considerable number of protests from  
16 customers when the subscriber line charge (SLC) went from \$3.50 to \$6.50 after the  
17 MAG Plan was approved by the FCC.

18 **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
19 **their bills?**

20 A. If it is anything close to \$24 per month, the reaction would be very hostile. The  
21 vast majority of our customers would gain no benefit from this service, and I would  
22 expect strong protests. The protests will be far worse than those to the SLC  
23 increase. Many of our customers are elderly. They will be especially hard hit.



1 **Q: Do you expect that the costs of implementing WLNP could create the necessity**  
2 **of a rate increase for SSTC?**

3 A. Depending on what costs are recoverable in any LNP end user fees, if the remainder  
4 is significant, SSTC will not be able to absorb them and may have to implement a  
5 dial tone rate increase to recover any deployment costs.

6 **Q: Do you have any concluding comments?**

7 A There are so many unknowns regarding WLNP implementation in rural exchanges.  
8 It makes much more sense to wait for the FCC or Courts to clarify key issues, such  
9 as: 1) How are rural ILECS to interconnect with distant wireless POI? 2) What will  
10 the porting interval be? and 3) If a number is ported, how would ILECs maintain  
11 the original wireline rate center when the service areas of wireline and wireless  
12 companies vary so greatly? There are so many unanswered questions it clearly  
13 makes sense to save our resources until these questions are answered. Doing so will  
14 save our customers significant dollars and help us provide services they actually  
15 want such as broadband.

16 **Q: Does this conclude your direct testimony?**

17 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct  
18 testimony at or before the hearing if I receive additional information pertaining to  
19 the issues I presented herein.

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

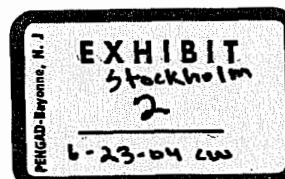
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IN THE MATTER OF THE PETITION  
OF STOCKHOLM-STRANDBURG  
TELEPHONE COMPANY FOR SUS-  
PENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-062  
REBUTTAL TESTIMONY OF  
MARGE NOWICK

REBUTTAL TESTIMONY OF  
  
MARGE NOWICK  
  
ON BEHALF OF  
  
STOCKHOLM-STRANDBURG TELEPHONE COMPANY

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Marjorie Nowick. I am the General Manager of Stockholm-Strandburg  
3 Telephone Company ("Stockholm-Strandburg"), whose address is 201 North Main  
4 Street, Stockholm, South Dakota 57264.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Stock-  
15 holm-Strandburg took immediate steps to investigate the cost and the processes in-  
16 volved with LNP and to explore its legal options. Because Stockholm-Strandburg  
17 had no experience with LNP, it took time to gather the pertinent information and to  
18 make the decision to seek a suspension of the requirement from the Commission.  
19 Further, the suspension petition itself took time and effort to prepare because  
20 Stockholm-Strandburg wanted to present as complete a petition as possible, accom-  
21 panied by cost information as complete as possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.

1 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
2 cal calls?"

3 **A. I believe that Mr. Williams' statement is not consistent with the interconnection**  
4 **agreement signed by Stockholm-Strandburg and Western Wireless. Pursuant to**  
5 **that agreement, Stockholm-Strandburg did not agree to route traffic destined for**  
6 **Western Wireless to the serving tandem. Rather, traffic terminating to Western**  
7 **Wireless is routed to an interexchange carrier. Therefore, it appears that Western**  
8 **Wireless' argument really is a bad faith attempt to change the agreement between**  
9 **the parties.**

10 **Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it**  
11 **is the originating carrier's responsibility to deliver local traffic for termination and that**  
12 **the costs associated with fulfilling that responsibility are not a number portability cost."**  
13 **What is your response to this statement?**

14 **A. Mr. Williams' statements are inconsistent and should be rejected. First he argues**  
15 **that Stockholm-Strandburg should be required to install new facilities to deliver**  
16 **ported calls to Western Wireless and then he argues that the cost of those facilities**  
17 **are not number portability costs. Further, as discussed at lines 3-9 above, Mr. Wil-**  
18 **liams' suggestion that it is Stockholm-Strandburg's responsibility to deliver traffic**  
19 **destined to Western Wireless through a serving tandem is not consistent with the in-**  
20 **terconnection agreement between Stockholm-Strandburg and Western Wireless.**

21 **Q. At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the**  
22 **Petitioners are inefficient in that they make little or no utilization of existing equipment**

1 and shared facilities currently used to exchange calls with other carriers.” How do you  
2 respond?

3 A. The routing methods reflected in the cost exhibit attached to Stockholm-  
4 Strandburg’s Petition are based on the current routing arrangements that Stock-  
5 holm-Strandburg has in place with other carriers namely, calls that are dialed on a  
6 local 7-digit basis are routed via direct connections. Therefore, if calls to numbers  
7 ported to a carrier are to be dialed on a local 7-digit basis, a direct connection needs  
8 to be established between the carriers.

9 Q. Would Western Wireless’ routing proposal have impacts to Stockholm-Strandburg be-  
10 yond LNP?

11 A. Yes. It is my understanding that Western Wireless’ proposal would increase Stock-  
12 holm-Strandburg’s costs. First, Western Wireless’ proposal would require Stock-  
13 holm-Strandburg to pay for new facilities to the tandem provider that it does not  
14 need for any purpose other than to route calls to ported numbers to wireless carri-  
15 ers. Second, Stockholm-Strandburg would most likely have to pay transit traffic  
16 charges to the tandem provider for transporting the traffic to the wireless carriers.

17 Q. Is there any other impact?

18 A. Yes. It appears that Western Wireless’ proposal would create a regulatory arbi-  
19 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
20 wireless carriers are routed to interexchange carriers. For example, if Stockholm-  
21 Strandburg Customer A calls Western Wireless Customer B, Stockholm-  
22 Strandburg Customer A incurs a toll charge. However, under Western Wireless’  
23 proposal, it is my understanding that if Stockholm-Strandburg Customer A calls

1 Western Wireless Customer B who now has a number ported from Stockholm-  
2 Strandburg, Stockholm-Strandburg Customer A would be charged for a local call.  
3 Customers may be encouraged to "give up" their existing wireless numbers and ob-  
4 tain wireline numbers for the sole purpose of porting that number to avoid toll  
5 charges. This is not only a bad public policy result, but also simply a bad faith at-  
6 tempt to avoid an important contract provision upon which Western has already  
7 agreed with our company.

8 Q. Does this conclude your rebuttal testimony?

9 A. Yes.

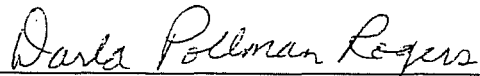
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
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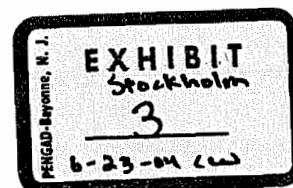
BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF STOCKHOLM-STRANDBURG  
TELEPHONE COMPANY FOR SUS-  
PENSION OR MODIFICATION OF  
§ 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-062

DIRECT PRE-FILED TESTIMONY OF  
JOHN DE WITTE

May 14, 2004





**DIRECT PRE-FILED TESTIMONY OF  
JOHN DE WITTE**

**Q: What is your name and address?**

A: My name is John M. De Witte. My business address is 1801 N. Main Street, Mitchell, South Dakota 57301.

**Q: By whom are you employed and in what capacity?**

A: I am the Vice President of Engineering of Vantage Point Solutions, Inc. (VPS). VPS is a telecommunications engineering and consulting firm in Mitchell, South Dakota with a full-time staff of 52 employees. Our client base of VPS is made up of rural independent Local Exchange Carriers (LECs). I focus on assisting the small LECs with nearly all technical and financial aspects of their operations. My direct staff of 13 and I have provided engineering, financial, and regulatory services to many of the South Dakota LECs, as well as LECs in several other states.

**Q: What is your educational and business background?**

A: I received a Bachelors of Science in Computer Engineering (1982) from Iowa State University (Ames, IA) and a Masters of Business Administration (1992) from Kennesaw Sate College (Kennesaw, GA). I am a Registered Professional Engineer in South Dakota and 10 other states.

I have been active in the telecommunications industry since 1983. Previous to VPS, I worked for Martin Group, Inc., based in Mitchell, South Dakota. At Martin Group, I was Assistant Director of Engineering of the Telecom Consulting and Engineering Business Unit, providing engineering and consulting services to rural telecommunications providers throughout the nation. Prior to this, I worked in a variety of engineering, marketing, and management positions at Nortel Networks,

1 Inc., a telecommunications equipment manufacturer in Raleigh, NC and Atlanta,  
2 GA. I am a regular speaker at many state, regional, and national telephone  
3 company organization events, including the National Telephone Cooperative  
4 Association (NTCA) and the Organization for the Promotion and Advancement of  
5 Small Telecommunications Companies (OPASTCO). In this capacity, I often  
6 advise telephone company managers and board members regarding a variety of  
7 technical and financial issues.

8 **Q: On whose behalf are you testifying in this proceeding?**

9 A: My direct pre-filed testimony is submitted on behalf of Stockholm-Strandburg  
10 Telephone Company (SSTC).

11 **Q: What is the purpose of your testimony?**

12 A: I will provide testimony on technical and cost issues of implementing LNP that is  
13 pertinent to this hearing.

14 **Q: Are you familiar with current telephone network technologies, including**  
15 **switching equipment, transmission equipment, and outside plant**  
16 **architectures?**

17 A: I have provided engineering and consulting services to more than 100 rural LECs  
18 across the United States. I am familiar with nearly all of the technologies and  
19 architectures of a rural LEC network, including transport equipment, switching  
20 equipment, digital loop carrier equipment, broadband networks, along with copper  
21 and fiber outside plant cable. I have engineered both landline networks and  
22 wireless networks for my clients.

1   **Q: Do you understand the various methods and requirements that are required to**  
2       **support Intramodal (wireline to wireline or wireless to wireless) and**  
3       **Intermodal (wireline to wireless) Local Number Portability?**

4   A: Yes I do.

5   **Q: With the number of variants for LNP, which implementation of LNP is the**  
6       **focus of your testimony?**

7   A: In general, the methodologies, rules, and implementation processes for wireline  
8       Intramodal LNP are clearly defined, and been in place for several years, and are  
9       widely deployed. The methodologies, rules, and implementation processes for  
10       Intermodal (wireline to wireless) LNP and wireless Intramodal LNP have only been  
11       in place since November 2003. Intermodal LNP relating to wireline to wireless  
12       ports will be the focus of my direct testimony.

13   **Q: What unique challenges are presented to a rural Independent Local Exchange**  
14       **Carrier (ILEC) with the implementation requirements of Intermodal LNP?**

15   A: There are several technical and economic issues facing rural ILECs as they evaluate  
16       the implementation of Intermodal LNP. The challenges for the small rural LECs  
17       concern the interconnection of wireless and wireline networks for the purposes of  
18       implementing Intermodal LNP. The Petitioner does not have existing direct points  
19       of connection to wireless carriers' networks in any of the rate centers it serves.  
20       Where there are no direct points of connection with the wireless carriers, only  
21       conventional, switched toll routes remain; but no translating, routing, rating or cost  
22       recovery rules are in place. Some of the questions that need to be addressed  
23       include: (1) where and how should the Petitioner interconnect with the wireless

1 carriers, (2) is the point of interconnection within the LATA, and (3) how will the  
2 Petitioner be able to maintain the original rate center designation and rating when  
3 the number is ported to a point of interconnection that is located outside the original  
4 rate center, when the wireless service area and the Petitioner's service area vary  
5 greatly. These issues are unique in rural areas, such as the Petitioner's service area,  
6 where few, if any interconnection arrangements exist and there are fewer  
7 subscribers in comparison to metropolitan areas over which to spread the costs of  
8 Intermodal LNP. The uncertainty surrounding these and other questions are likely  
9 to cause significant customer confusion, complaints to the Petitioner and the  
10 SDPUC, and the resulting perception of degraded customer service on the part of  
11 the Petitioner's members. SSTC has not received a LNP request from a wireline  
12 competitive local exchange carrier (CLEC); therefore SSTC has not previously  
13 implemented LNP. As a result, numerous upgrades in software and operational  
14 procedures will be required in order to meet the Intermodal LNP requirements,  
15 which will benefit only those few subscribers that choose to leave SSTC, while  
16 encumbering the entire remaining subscribers with the burden of funding the  
17 porting benefit. In addition, current implementation rules do not provide the  
18 necessary competitive playing field to allow wireless subscribers to port to SSTC's  
19 wireline services.

20 **Q: What are the anticipated costs of implementing Intermodal LNP?**

21 A: The anticipated costs of implementing Intermodal LNP can be categorized into four  
22 (4) basic areas: 1) Switching related costs, 2) Number Portability Administration  
23 Center (NPAC) related costs, 3) Administrative/Technical costs and 4) Transport

1 Costs. The LNP Petition filed on behalf of SSTC included an Exhibit detailing the  
2 estimated implementation costs for intermodal LNP. This Exhibit is attached as  
3 Exhibit [1]. Each of the cost elements in these categories will be identified in the  
4 following paragraphs.

5 Switching Related Costs

6 The cost elements in this category include switching generic software upgrades,  
7 LNP software features, prerequisite software features to support the LNP features,  
8 any requisite switch hardware to support the operation of the LNP software, switch  
9 vendor installation costs, vendor software activation fees, and maintenance  
10 expenses attributable to LNP. As part of the cost estimates provided with the SSTC  
11 Waiver Petition, the cost estimates for this category are detailed as follows:

12 LNP Hardware Requirements

13 SSTC utilizes a Nortel Networks (Nortel) DMS-10 as its wireline switching  
14 platform. SSTC does not currently record AMA locally. Currently, all of SSTC's  
15 toll traffic is recorded by SDN Communications. Based on the complexity of LNP,  
16 SSTC may require the implementation of AMA recording. The implementation of  
17 AMA recording will require that additional of the Nortel IBSR hardware and on the  
18 Petitioner's DMS-10 switching system. These costs are estimated at \$35,000.  
19 These cost estimates are reflected in the Petitioner's non-recurring cost exhibit.

20 LNP Software Features

21 According to oral conversations with Nortel, the SSTC DMS-10 currently has the  
22 generic software load that will support LNP. The LNP software features have not  
23 been activated in SSTC's DMS-10 platform. Based on LNP pricing estimates from

1 Nortel Networks, the non-recurring cost estimate for the LNP Basic software  
2 feature for DMS-10 switches is \$4 per equipped line, which amounts to  
3 approximately \$3,200 for SSTC. Nortel does not charge a recurring Right-To-Use  
4 (RTU) fee for these features. Based on the oral information provided by Nortel,  
5 SSTC claimed \$3,200 for LNP software features and did not claim any recurring  
6 cost estimates for LNP software as part of its estimated costs.

7 Additional Software Features

8 With the addition of the AMA recording capabilities, SSTC will require the  
9 addition of the appropriate software features to support AMA recording functions.  
10 These software features are estimated at \$15,000 based on oral conversations with  
11 Nortel. Nortel does not charge a recurring Right-To-Use (RTU) fee for these  
12 features. Therefore, SSTC claimed \$15,000 in non recurring costs with no  
13 recurring cost estimates for additional LNP software as part of its estimated LNP  
14 implementation costs.

15 Additional Vendor Fees

16 With the addition of new hardware in SSTC's DMS-10, Nortel will assess a project  
17 start-up fee. Based on oral LNP pricing estimates from Nortel Networks, SSTC  
18 also claimed as a Non-Recurring Additional Software Fee an estimated \$5,000  
19 charge required for vendor project start-up fees. If the LNP is ultimately  
20 implemented as a result of this hearing, the Petitioner will revise the estimate for  
21 additional vendor fees based on firm pricing quotations from Nortel Networks.

1       Initial LNP Translations

2       There are several activities that are required to initially set up and test the basic  
3       translations for LNP. The non-recurring initial translations cost estimates were  
4       based on the anticipated fees to data-fill and test basic LNP functionality in the  
5       Petitioner's switching system. This testing includes coordination of testing with the  
6       SOA provider, coordination of testing with any transiting carriers, verification of  
7       proper LNP dip activities, verification of billing system interaction, and other  
8       translations activities. This cost estimate is approximately \$10,000. In order to  
9       allow time for coordination of testing with other entities, it is assumed that the  
10      initial translations testing will require approximately two (2) man-weeks of  
11      translations activities by a third party technical consultant for the host DMS-10  
12      switch, at a loaded hourly rate of \$100 per hour. The remaining portion of this cost  
13      estimate includes travel, living and other miscellaneous expenses.

14      Technical Implementation and Testing

15      There are several activities that are required to initially set up and test the basic  
16      translations for each CMRS carrier requesting Intermodal LNP. The non-recurring  
17      technical implementation and testing cost estimates were based on the anticipated  
18      fees to data-fill and test specific Intermodal LNP functionality in the Petitioner's  
19      switching system. The non-recurring technical implementation and testing cost  
20      estimates were based on performing number porting tests individually associated  
21      with each CMRS to ensure that the ported number route correctly flows through the  
22      Petitioner's network. As the FCC has not required a formal Interconnection  
23      Agreement, it is assumed that the Petitioner will be responsible for performing these

1 tests in order to ensure proper call routing. This cost estimate was based on \$5,000  
2 for each CMRS Carrier. The cost estimate is based on 40 hours of testing at \$100  
3 per hour by a 3<sup>rd</sup> party resource including travel and living expenses. SSTC will  
4 revise this estimate if other CMRS carriers plan to offer services in the SSTC  
5 exchange areas.

#### 6 NPAC Related Costs

7 The cost elements in this category include Service Order Administration (SOA)  
8 costs, LNP Query costs, and connection costs with the LNP database. As part of  
9 the cost estimates provided with the SSTC Waiver Petition, the cost estimates for  
10 this category are detailed as follows:

#### 11 Service Order Administration

12 As part of the LNP implementation process, the Petitioner must select a provider to  
13 administer updates to the Number Portability Administration Center (NPAC) LNP  
14 database. In anticipation of reduced porting intervals in the future, the Petitioner  
15 has elected to include the costs for an automated SOA system. The SOA cost  
16 estimates were based a compilation of SOA services price lists from several firms  
17 providing automated SOA services. These cost estimates represent the anticipated  
18 start-up costs and recurring costs levied by the SOA provider to utilize its  
19 automated services to update the LNP databases. The sample pricing scenarios  
20 were obtained under Non Disclosure Agreement (NDA) from several SOA services  
21 providers. As the Petitioner has not entered into any contracts with these or any  
22 SOA entities, firm pricing cannot be provided. As an estimate, the non-recurring  
23 SOA costs were assumed to be \$2,000 with the recurring SOA costs assumed to be



1 \$500. Should the Petitioner enter into a contract with an automated SOA provider,  
2 these cost estimates can be revised.

### 3 LNP Query Charges

4 With the implementation of LNP, the Petitioner will incur charges for each LNP  
5 query launched for its subscribers. The LNP query cost estimates were based on a  
6 compilation of SOA services price lists from several firms providing automated  
7 SOA services. The sample pricing scenarios were obtained under NDA from  
8 several SOA Services providers. As the Petitioner has not entered into any  
9 contracts with these or any SOA entities, firm pricing cannot be provided. The non-  
10 recurring LNP Query cost estimate represents the anticipated start-up costs levied  
11 by the SOA provider to utilize its services to dip its database. This initial set-up  
12 charge is assumed to be \$500. The recurring LNP Query cost estimates were based  
13 on the assumption that each of the Petitioner's access lines would generate five (5)  
14 to six (6) call attempts per day; each of the call attempts would generate an LNP  
15 query. The query charge is assumed to range between \$0.001 and \$0.0005 per  
16 query. Based on these assumptions, the recurring LNP Query charge was assumed  
17 to be \$100. Should the Petitioner enter into a contract with an automated SOA  
18 provider, these cost estimates can be revised.

### 19 Connection Costs w/LNP Database

20 With the implementation of LNP, the Petitioner will incur set-up charges levied by  
21 the SOA provider to enter its NECA Operating Company Number (OCN) and Point  
22 Codes for each switch launching LNP queries to the SOA's LNP database. The  
23 non-recurring connection costs with LNP database estimate was based on a

1 compilation of SOA services price lists from several firms providing automated  
2 SOA services. The sample pricing scenarios were obtained under NDA from  
3 several SOA Services providers. As the Petitioner has not entered into any  
4 contracts with these or any SOA entities, firm pricing cannot be provided. The cost  
5 estimate for this element was estimated at \$150 assuming a single point code at  
6 \$150 per point code. Should the Petitioner enter into a contract with an automated  
7 SOA provider, this cost estimate can be revised.

#### 8 Technical and Administrative Costs

9 The cost elements in this category include testing and verification of each ported  
10 DN, translations for each ported DN, administrative cost estimates, regulatory cost  
11 estimates, customer care cost estimates, and marketing cost estimates. As part of  
12 the cost estimates provided with the SSTC Waiver Petition, the cost estimates for  
13 this category are detailed as follows:

#### 14 Testing and Verification of Each Ported Dial Number

15 This cost estimate addresses the anticipated activities to test each “ported out”  
16 directory number (DN) to verify the proper routing of the DN. The recurring  
17 Testing/Verification cost estimates were based on one (1) hour per port at the  
18 Petitioner’s loaded technical labor costs of \$35 per hour.

#### 19 Per Port Translations

20 This cost estimate addresses the anticipated translations activities to “port out” each  
21 DN. The recurring translations cost estimate was based on \$50 per port.  
22  
23

1       Administrative Costs

2       The implementation of LNP will require SSTC to implement new administrative  
3       policies and procedures. The non-recurring administrative cost estimates were  
4       based on providing LNP process training for the Petitioner's administrative  
5       personnel. The training is assumed to be provided by the entity providing  
6       automated SOA services. The Petitioner has not selected a SOA provider at this  
7       time. The non-recurring costs estimates are based on a one-week onsite customer  
8       service representative training class, including the instructor's travel and living  
9       expenses. This cost is assumed to be \$5,000. The recurring administrative cost  
10      estimate addresses the anticipated administrative activities required with entry of  
11      the ported number into the SOA system. The recurring administrative cost  
12      estimates were based on one half (1/2) hour per port at the Petitioner's loaded  
13      administrative labor costs of \$46 per hour.

14      Regulatory Costs

15      This cost element is associated with the Petitioner's Legal Fees and Regulatory  
16      Consulting fees. The legal fees are associated with the Petitioner's attorneys. The  
17      anticipated fees are associated with reviewing the legal aspects of LNP filings and  
18      LNP implementation. The regulatory consulting fees are typically associated with  
19      the updates required to various National databases (NECA Tariff 4, Telcordia  
20      LERG, etc.) and the possible assistance with the completion of the NECA End User  
21      Charge worksheets. This cost is estimated at 100 hours at an average rate of \$150  
22      per hour and includes travel, living, and miscellaneous expenses. Based on the

1 legal activities required to implement LNP, the Petitioner may revise this figure at a  
2 later date.

### 3 Customer Care Costs

4 The implementation of LNP will require SSTC to implement new customer care  
5 policies and procedures. The non-recurring customer care cost estimates were  
6 based on providing LNP customer care training for the Petitioner's administrative  
7 personnel. The training is assumed to be provided by the entity providing the  
8 Petitioner's billing platform services. The Petitioner has not developed the  
9 Customer Care and Billing processes for LNP at this time. The costs estimates are  
10 based on a one-week onsite Operational Support Services (OSS) training class. The  
11 recurring customer care cost estimates were based on one-half (1/2) hour per port at  
12 the Petitioner's loaded customer care labor costs of \$46 per hour. This cost  
13 estimate addresses the anticipated administrative activities required with updating  
14 the Petitioner's customer care and billing system and to track the "ported out" DNs.

### 15 Marketing and Informational Flyer Cost Estimates

16 The implementation of LNP will likely generate subscriber confusion from the  
17 addition of an End User Charge for the implementation of LNP. The Petitioner  
18 plans to develop an informational flyer to help educate the subscriber base by  
19 explaining LNP and the reasons for the proposed LNP End User Charge appearing  
20 on the subscribers' monthly local service bill. The non-recurring marketing and  
21 informational flyer cost estimates were based on the costs required to develop an  
22 informational flyer and billing insert explaining LNP and any end-user fees that  
23 may apply. The total non-recurring estimated costs in this category were expressed

1 as a “per access line” cost and were estimated at approximately \$2.00 per  
2 subscriber. This cost estimate includes the development of the explanatory LNP  
3 text, the graphic design artwork, and first run printing costs. The recurring  
4 marketing and informational flyer cost estimates were based on \$3.00 per  
5 subscriber per year for volume print costs, handling, and mailing the periodic  
6 flyer/bill insert. This recurring marketing/informational flyer cost estimate was  
7 amortized over 12 months to arrive at an estimated monthly fee for the Cost  
8 Exhibit.

#### 9 Billing/Customer Care Software Updates

10 The Petitioner’s billing and customer care system will require software upgrades to  
11 support LNP. The non-recurring billing and customer care software upgrade cost  
12 estimates represents the anticipated costs to upgrade the Petitioner’s billing system  
13 to accommodate LNP functionality. This upgrade was estimated as an allocated  
14 cost of the Petitioner’s annual billing system upgrade.

#### 15 Transport-Related Cost Estimates

16 The cost elements in this category include the estimated costs of transport to  
17 connect the Petitioner’s exchange with the CMRS carriers, anticipated cost  
18 estimates for transiting CMRS connections, and anticipated cost estimates for pass-  
19 through N-1 Tandem LNP queries. As part of the cost estimates provided with the  
20 SSTC Waiver Petition, the cost estimates for this category are detailed as follows:

#### 21 Transport Cost Estimates

22 The Petitioner will require direct Type 2B DS1 transport facilities from the  
23 Petitioner’s exchange to each CMRS provider’s Point of Interconnection (POI) for

1 those CMRS carriers requesting intermodal LNP. The Petitioner does not possess  
2 POI information for each CMRS carrier. The non-recurring wireless carriers POI  
3 cost estimates represent the costs associated with providing a Type 2B DS1 span to  
4 each CMRS provider. As stated in the Petition, the Petitioner assumes  
5 interconnection will be required with five (5) CMRS carriers. The Petitioner  
6 estimates that the non-recurring transport costs for each CMRS will be  
7 approximately \$5,000 per exchange. This cost estimate includes the switch DS1  
8 interface hardware and supporting equipment required to place a Type 2B DS1 span  
9 into service. The recurring wireless carriers POI cost estimates were based on  
10 monthly transport lease cost estimates. As stated in the Petition, the Petitioner  
11 assumes interconnection will be required with five (5) CMRS carriers. The  
12 Petitioner estimates that the recurring transport costs for each Type 2B DS1 will be  
13 approximately \$800 per month. SSTC plans to revise this recurring transport cost  
14 estimate once POI information is provided by the CMRS carriers and firm pricing  
15 can be provided by a transport provider (such as SDN Communications or Qwest).

16 Mobile Telephone Switching Office (MTSO) POI Connection Cost Estimates

17 The Petitioner does not possess POI information for the CMRS carriers that have or  
18 will likely to provide a Bona Fide Request (BFR) to the Petitioner for intermodal  
19 LNP. The possibility exists that a transiting carrier (such as Qwest or SDN  
20 Communications) may establish DS1 connections with one or more of the CMRS  
21 carriers. The MTSO POI connection cost estimates represent the anticipated costs  
22 for the Petitioner's share of this connection, if required. The non-recurring MTSO  
23 POI connection cost estimates were based on an estimate of the start-up costs to

1 utilize a transiting carrier for CMRS MTSO connections, if required. The recurring  
2 MTSO POI connection cost estimates were based on the Petitioner's anticipated  
3 share of monthly lease for the transiting carrier MTSO POI connection cost  
4 estimates, if required. If the CMRS carriers elect to directly connect with the  
5 Petitioner (without a transiting carrier) on a direct Type 2B connection to the  
6 CMRS' Mobile Telephone Switching Office (MTSO), these cost estimates will  
7 likely be not applicable.

8 Transiting Dip (Minimum) Cost Estimates

9 This cost estimate was based on the assumption that the transiting carrier may need  
10 to perform some LNP queries when the Petitioner's N-1 carrier fails to do so. The  
11 transiting non-recurring dip cost estimate describes the anticipated costs of the non-  
12 recurring set-up charges to enable the Petitioner to receive dip charges from a  
13 transiting carrier such as SDN Communications, if required. The initial setup  
14 charges are likely to be passed on to Petitioner. SSTC has estimated this cost to be  
15 \$500. The transiting carrier recurring dip cost estimates describe the anticipated  
16 costs of the minimum dip charges from a transiting carrier. These charges are likely  
17 to be passed on to Petitioner. SSTC has estimated this cost estimate to be \$100 per  
18 month. If the CMRS carriers elect to directly connect with the Petitioner (without a  
19 transiting carrier) on a direct Type 2B connection to the CMRS' Mobile Telephone  
20 Switching Office (MTSO), these cost estimates will likely be not applicable.

21 **Q: It appears that one of the larger estimated costs projected for the**  
22 **implementation of Intermodal LNP relates to transport costs. What**

1       **considerations concerning compensation for transport costs are applicable to**  
2       **the implementation of Intermodal LNP?**

3    A:   With regard to the direct Type 2B connections to the wireless carriers described in  
4       the preceding cost estimates, these cost estimates are identified as required  
5       connections to allow Intermodal LNP to function correctly within the Petitioner's  
6       existing billing and customer care systems.

7    **Q:   If no direct Type 2B DS1 facilities are available for interconnection with the**  
8       **CMRS carriers, what happens for SSTC?**

9    A:   Without direct Type 2B facilities, the ported calls will be routed based on the Local  
10       Routing Number (LRN) delivered with the LNP query. The LRN will contain the  
11       NPA-NXX of the wireless carrier. Based on this NPA-NXX, these calls will be  
12       routed as toll calls over SSTC's existing toll routes to SSTC's Access Tandem  
13       (SDN Communications).

14   **Q:   In your opinion, are the proposed Type 2B DS1 facilities to each CMRS carrier**  
15       **cost justified?**

16   A:   Without actual traffic data, it is impossible to determine the feasibility of a  
17       particular facility. However, based on the anticipated traffic levels generated by the  
18       projected intermodal LNP ports, it appears that the construction of these facilities is  
19       not cost-justified. If the facilities were feasible, it is likely that the wireless carriers  
20       would have implemented them already as they have in other areas. Based on the  
21       projected traffic levels, it appears that the direct facilities between Petitioner and the  
22       wireless carriers required for LNP would be highly under-utilized and very  
23       inefficient.



1   **Q: It appears that some of the anticipated cost estimates are based on the quantity**  
2       **of anticipated numbers that would be ported to a CMRS carrier. How was the**  
3       **number of ports determined?**

4   A: The quantity of projected ports is a function of the competitive environment in the  
5       proposed service area, the number of CMRS carriers, and other statistical data.  
6       The data that is currently available concerning porting activity for CMRS carriers  
7       on a wide-scale basis is limited. It is my understanding that no Petitioner  
8       customer has ever made an inquiry to Petitioner regarding LNP or a request for  
9       LNP. With respect to wireless LNP nationwide, to date, the demand for wireless  
10      porting has been far less than expected and most ports have been from one  
11      wireless carrier to another. Wireline to wireless porting appears to be a small  
12      fraction of wireless porting in general.<sup>1</sup> According to NeuStar, 95% of wireless  
13      ports have been from one wireless carrier to another and only 5% of wireless ports  
14      were between wireline and wireless carriers.<sup>2</sup> With lack of ubiquitous quality and  
15      incomplete coverage of the Petitioner's existing service area by the existing  
16      wireless carriers, I believe that the percentage would be even smaller than in other  
17      more urban parts of the nation. For purposes of the cost exhibit, approximately  
18      one (1) intermodal port per year was estimated,<sup>3</sup> which is well under the five (5)  
19      percent of the Petitioner's access lines. Accordingly, there appears to be little, if  
20      any, demand for LNP and, absent such demand, no public benefit will be derived

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<sup>1</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.

<sup>2</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p. 4 (March 9, 2004)

<sup>3</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that between one percent (1%) and three percent (3%) are intermodal.

1 from LNP. Even if some level of LNP demand develops in the future, the total  
2 implementation costs that would be incurred by Petitioner to implement and  
3 maintain LNP would require re-evaluation based on the customer demand,  
4 quantity of ports, and the revised estimated costs for the required LNP  
5 infrastructure elements.

6 **Q: Will any of the Petitioner's estimated costs change if the number of estimated**  
7 **ports is changed?**

8 A: Yes. There are several of the estimated recurring costs that are driven by the  
9 number of ports. These cost elements include the recurring translations costs, the  
10 recurring testing and verification of each ported number, the recurring  
11 administrative cost estimates, and the recurring customer care costs. If the  
12 projected number of ports increases, these costs will increase. If the number of  
13 projected ports decreases, these costs will decrease.

14 **Q: The current porting interval is currently four (4) days. If the porting interval**  
15 **were shortened to two (2) days or less, what effect, if any, would this shortened**  
16 **interval have on the estimated costs?**

17 A: The current industry experience with Intermodal porting is has not been without  
18 implementation issues. Significant problems meeting the current four (4) day  
19 porting interval have been reported. Assuming that the implementation issues are  
20 refined to the point where a shorter porting interval can be supported, the Petitioner  
21 has included the known cost elements to support a shorter porting interval. The  
22 Petitioner has assumed the use of an automated SOA system as part of their  
23 anticipated LNP implementation costs. An automated SOA system will allow the

1       Petitioner to accommodate an electronic request and acknowledgement for the  
2       ported numbers. Therefore, the Petitioner does not anticipate any increases in its  
3       SOA related non-recurring or recurring cost estimates. It is possible that additional  
4       recurring costs in the areas of translations, technical implementation, testing,  
5       verification, customer care, and administrative would occur if the porting interval  
6       were to be reduced to require that porting activities occur outside of the standard  
7       business day (expedited requests, nights, weekends, and holidays). If porting is  
8       required during these times, additional loaded labor rates will be incurred. If the  
9       porting requirements are confined to the standard business day, the Petitioner does  
10      not anticipate any additional recurring LNP costs. However, it is possible that  
11      unforeseen requirements could require additional charges.

12   **Q: Are there any other potential costs that could impact SSTC with the**  
13   **implementation of Intermodal LNP?**

14   A: If SSTC must implement intermodal LNP, all carriers with EAS arrangements with  
15   SSTC and their customers will be impacted because the other carrier will have to  
16   LNP dip all EAS calls. This would increase the cost of EAS between SSTC and the  
17   other carrier and could result in a loss of EAS options to the customer or an increase  
18   in the cost of optional EAS service.

19   **Q: Some telecommunications industry analysts have suggested that Foreign**  
20   **Exchange Service (FX) could be used to provide connections to accommodate**  
21   **intermodal LNP. Is this a reasonable alternative?**

22   A: There have been industry discussions of using an FX service for Intermodal LNP  
23   interconnection. An FX service is a line appearance that is extended from the

1 “home” exchange to a “foreign” exchange using dedicated point-to-point facilities.  
2 The FX service is engineered on a per line basis. It is not a common trunk that can  
3 be used by a carrier for routing purposes. With an FX service, the LEC has  
4 customers and facilities in one rate center and provides service to customers in  
5 another rate center using the same “home” number block. To do this, facilities are  
6 extended from the LEC rate center to the foreign rate center where the customer  
7 resides. It is important to note that the customer pays for the use of these facilities.  
8 The LEC is compensated for their facilities and lost toll revenue through these  
9 customer charges. It is unknown exactly how an ILEC would implement an FX  
10 service to accommodate Intermodal LNP. The exact connectivity, rate elements,  
11 and network configuration for the proposed Intermodal LNP FX service appear to  
12 be undefined. As such, any discussion of using FX as a viable transport alternative  
13 for Intermodal LNP transport is purely speculation.

14 **Q: You have addressed several estimated costs for Intermodal LNP. How would**  
15 **these cost estimates change if Petitioner must implement only Intramodal**  
16 **(wireline to wireline) LNP?**

17 **A:** All cost elements would stay the same, but the amount of the cost estimates could  
18 change. It is my understanding that both wireline providers would be in the same  
19 rate center. Accordingly, the primary change in the estimated costs would be in the  
20 area of transport costs. The petitioner estimates that these costs would likely be  
21 significantly reduced. Intramodal LNP has clearly defined processes for the  
22 exchange of traffic between the respective wireline carriers competing in a clearly  
23 defined rate center. In the intramodal LNP cases with which I am familiar, the

1 carriers have entered into an Interconnection Agreement. The Intramodal  
2 Interconnection Agreement addresses the methods and compensation that will be  
3 used to establish interconnection and exchange traffic between the wireline carriers.  
4 The compensation for the traffic volumes is typically in the form of reciprocal  
5 compensation. In addition, the recurring costs for testing of each ported number  
6 would likely be reduced since the dialing plans and routing between the carriers will  
7 likely not change on a regular basis. The reduction of these costs is dependent upon  
8 the volume of ports. The remaining costs will likely be unchanged.

9 **Q: What would be the timeframe required for the Petitioner to fully implement,**  
10 **test and place Intermodal LNP into commercial service, if required to do so?**

11 A: Please refer to the LNP Implementation Timeline, attached hereto as Exhibit [2].  
12 The Timeline details the individual, inter-dependent tasks necessary to fully  
13 implement Intermodal LNP. They are arrayed in a self-explanatory fashion,  
14 showing the anticipated duration of each task and its relationship to other tasks.  
15 The overall duration that results for the Timeline supports that approximately six  
16 (6) months would be required to fully prepare for, implement, test and place  
17 Intermodal LNP into commercial service, as stated in the SSTC Waiver Petition.  
18 As with any planning horizon, this timeline does not take into account holidays or  
19 other unforeseen delays due to Force Majeure.

20 **Q: Does this conclude your direct testimony?**

21 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct  
22 testimony at or before the hearing if I receive additional information pertaining to  
23 the issues I presented herein.

## Exhibit 1

**STOCKHOLM-STRANDBURG TELEPHONE COMPANY**  
**ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY**

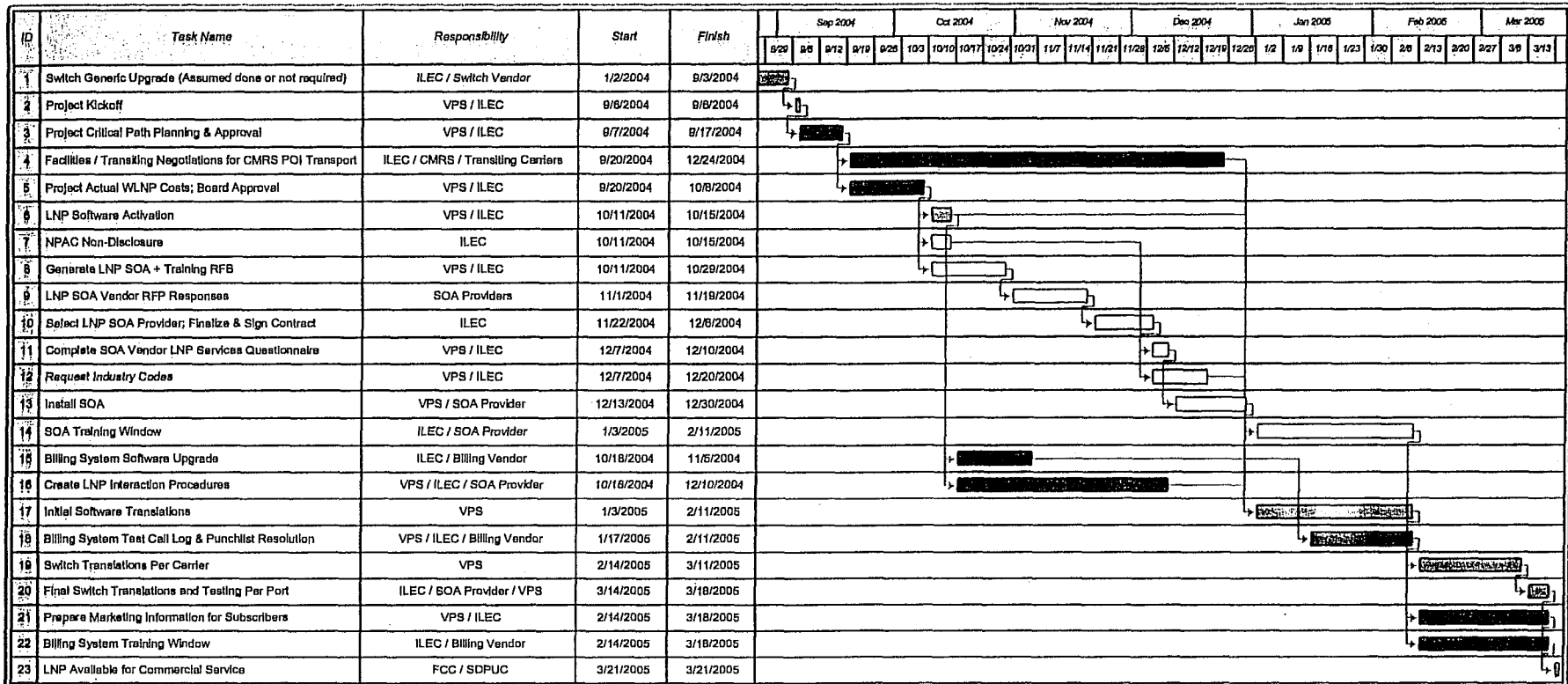
	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ 35,000		
LNP Software Features	\$ 3,200		
Additional Software Features	\$ 15,000		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 10,000		
Technical Implementation and Testing	\$ 25,000		Initial LNP Basic Translations Costs
<b>Subtotal</b>	<b>\$ 93,200</b>		(Corrected from Filed Exhibit)
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 2,000	\$ 500	
LNP Queries	\$ 500	\$ 100	
Connection Costs w/LNP Database	\$ 150	\$ -	
<b>Subtotals</b>	<b>\$ 2,650</b>	<b>\$ 600</b>	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 3	Testing/Verification of Ported Dial Number(s)
Translations	\$ -	\$ 4	Translations Costs - Ported Numbers
Administrative	\$ 5,000	\$ 2	
Regulatory	\$ 15,000	\$ -	
Customer Care	\$ 10,000	\$ 2	
Marketing/Informational Flyer	\$ 1,500	\$ 200	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
<b>Subtotals</b>	<b>\$ 36,500</b>	<b>\$ 211</b>	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carriers Points of Interconnection (POI)	\$ 75,000	\$ 12,000	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 76,000</b>	<b>\$ 12,300</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>	<b>\$ 208,350</b>	<b>\$ 13,111</b>	
<b>Current Access Lines</b>	<b>714</b>	<b>714</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>	<b>\$ 292</b>	<b>\$ 19</b>	
<b>Access Line Impact - First 60-Month Period</b>		<b>\$ 24</b>	

## Exhibit 2



## Exhibit 2

## LNP Implementation Timeline



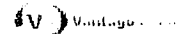
### Switching-Related

NPAC-Related

Administrative/Technical

### Transport-Related

Revised May 13, 2004



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

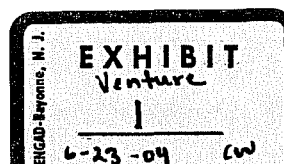
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IN THE MATTER OF THE PETITION  
OF VENTURE COMMUNICATIONS  
COOPERATIVE FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-060

**DIRECT PRE-FILED TESTIMONY OF**  
**RANDY W. HOUDEK**

May 14, 2004



**DIRECT PRE-FILED TESTIMONY OF  
RANDY HOUDEK**

**Q: What is your name and address?**

A: My name is Randy Houdek. My business address is 218 Commercial St., PO Box 157, Highmore, SD, 57345. My business telephone number is (605) 852-3851.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Venture Communications Cooperative (VCC). VCC is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 13,666 access lines within its South Dakota service area, which includes the exchanges of: Blunt, Britton, Gettysburg, Harrold, Highmore, Hitchcock, Hoven, Langford, Lebanon, Onaka, Onida, East Onida, West Onida, Ree Heights, Rosholt, Roslyn, Selby, Sisseton, Tolstoy, Tulare, Wessington, Wessington Springs, Bowdle, Pierpont, Roscoe and Seneca.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: Yes. VCC has one Type 2B direct connection with Western Wireless at Sisseton (698) and three Type 1 connections with Verizon at Highmore, Gettysburg and Britton. VCC does provide blocks of numbers to selected wireless carriers in certain exchanges, but these carriers are evaluating replacing the Type 1 connections with standard Type 2B direct connections. The blocks of numbers VCC provides to the wireless carriers are Britton (448), Gettysburg (765) and Sisseton (698, 742)

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

1 A: VCC has 26 exchanges many of which are very rural. Our service areas are de-  
2 fined by where we have physical cable plant. However, the wireless carriers serve  
3 by the reach of a radio frequency from a tower site. Their wireless local calling ar-  
4 eas are often much larger than our exchange boundaries. The boundaries of our  
5 wire/rate centers and the local calling areas of the wireless carriers serving in our  
6 area vary greatly.

7 **Q: Does your company provide any Extended Area Service (EAS) plans to its sub-**  
8 **scribers which connect to adjacent exchanges of other LECs?**

9 A: VCC provides EAS between its exchange and the following exchanges of adjacent  
10 LECS:

<u>VCC Exchange</u>	<u>Adjacent Exchange (LEC)</u>
Hitchcock	Huron (Qwest)
Rosholt	New Effington (Roberts County Tel. Co-op)
Roslyn	Webster (Interstate Telecommunications Co-op)
Selby	Glenham, Mobridge (West River-Hazen) and Mound City (Valley Telecommunications Co-op)
Sisseton	Claire City, New Effington, Peever and Veblen (Roberts County and RC Communications)
Tulare	Redfield (Qwest)
Pierpont	Bristol (James Valley Tel.) Webster (ITC)
Roscoe	Ipswich (Valley)

22 **Q: What is the current method of routing calls from your subscriber's**  
23 **landline phones to wireless phone numbers?**

1 A: As an example, when a subscriber located in Highmore uses his/her landline phone  
2 to call a wireless phone number, the call is routed from the subscriber's landline  
3 phone to the Highmore central office switch, where it is determined to be a non-  
4 local call and is therefore switched to a toll trunk group. The toll trunk carries the  
5 call to SDN Communication's (SDN) Centralized Equal Access (CEA) tandem,  
6 which is located in Sioux Falls, to be routed to the appropriate Point of Interconnec-  
7 tion (POI) of the wireless carrier. Verizon also has direct Type 1 wireless connec-  
8 tions at VCC's Highmore, Gettysburg and Britton exchanges. When a VCC mem-  
9 ber in those exchanges calls one of these wireless NXXs, the call is routed to that  
10 trunk group and the call goes directly to the wireless carrier. For the Western Wire-  
11 less direct Type 2B DS1 connection at Sisseton, any local exchange traffic from  
12 Sisseton or any EAS traffic from Claire City, New Effington, Peever, Rosholt or  
13 Veblen, is routed by local trunks to the Western Wireless direct connection at Sisse-  
14 ton.

15 **Q: What is the number of wireless carriers authorized to serve in your company's**  
16 **service area?**

17 A: To my knowledge, five (5) wireless carriers are authorized to serve in VCC's ser-  
18 vice area (Verizon Wireless, Western Wireless, Sprint PCS, RCC and Nextel).

19 **Q: Have any subscribers requested local number portability (LNP) from your**  
20 **company?**

21 A: To my knowledge, not a single VCC subscriber has requested local number port-  
22 ability from VCC. Further, there was considerable press and TV coverage in our  
23 service area about this issue when the FCC first issued its November 10 *Order*.

1   **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever re-**  
2       **quested LNP from your compay?**

3   A: No.

4   **Q: Have any wireless carriers submitted bona fide requests for LNP and if so**  
5       **when?**

6   A: Yes. Western Wireless, Verizon and RCC.

7   **Q: Are there any existing capital investments for broadband that will be diverted**  
8       **if your company must deploy LNP?**

9   A: Yes. DSL and broadband services are of utmost importance to our customers. Of  
10   all our new services, our customers are most interested in broadband. We are up-  
11   grading our networks to provide broadband services. Any amount of capital in-  
12   vestment that is diverted to the implementation of LNP will reduce needed capital  
13   from broadband investments. VCC is a very rural company and has limited re-  
14   sources to fund network investments into remote rural areas. We would like to  
15   serve the real demands of our customers rather than provide a service that has been  
16   mandated by the FCC that our customers are not requesting.

17   **Q: What will the impact be on VCC and its customers if it is required to provide**  
18       **wireless LNP?**

19   A: If WLNP is required, the cost of implementing WLNP will hit VCC and its custom-  
20   ers hard. We have limited economies of scale in implementing WLNP. Exhibit 1  
21   to our Petition shows a non-recurring impact of \$60 per access line and a reoccur-  
22   ring impact of \$19 per line. This is for a service that not a single customer has re-  
23   quested to date. There is little, if any, demand for WLNP in our service area. With

1 little demand there is a substantial burden to pay for the service. Further, the vast  
2 majority of our customers will have to pay for those few, if any, who may decide to  
3 port their numbers. It's a very poor bargain for the majority of our customers.

4 **Q: In your experience as the manager of VCC have you seen increases or addi-**  
5 **tions to the itemized fees on your customer's telephone bills?**

6 A. Yes. Most customers tell me there have been too many new fees or fee increases on  
7 their bills in recent years. We have received considerable protests from customers  
8 when the subscriber line charge (SLC) went from \$3.50 to \$6.50 after the MAG  
9 Plan was approved by the FCC.

10 **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
11 **their bills?**

12 A. If it is anything close to \$19 per month the reaction will be very hostile. The vast  
13 majority of our customers would gain no benefit from this service, and I expect  
14 strong protests to the VCC directors, staff and myself. The protests will be far  
15 worse than those to the SLC increase. Many of our customers are elderly. They  
16 will be especially hard hit.

17 **Q: Do you expect that the costs of implementing WLNP could create the necessity**  
18 **of a rate increase for VCC?**

19 A. Depending on what costs are recoverable in any LNP end user fees, if the remainder  
20 is significant, VCC will not be able to absorb them and may have to implement a  
21 dial tone rate increase to recover any deployment costs.

22 **Q: Do you have any concluding comments?**

1 A There are still so many unknowns regarding WLNP implementation in rural ex-  
2 changes. It makes much more sense to wait for the FCC or Courts to clarify key is-  
3 sues, such as: 1) How are rural ILECS to interconnect with distant wireless POI?  
4 2) What would the porting interval be? and 3) If a number is ported how would  
5 ILECs maintain the original wireline rate center when the service areas of wireline  
6 and wireless companies vary so greatly? There are so many unanswered questions  
7 that it clearly makes sense to save our resources until these questions are answered.  
8 Doing so will save our customers significant dollars and help us provide services  
9 they actually want such as broadband.

10 **Q: Does this conclude your direct testimony?**

11 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testi-  
12 mony at or before the hearing if I receive additional information pertaining to the  
13 issues I presented herein.



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF VENTURE COMMUNICATIONS  
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Docket No. TC04-060  
REBUTTAL TESTIMONY OF  
RANDY W. HOUDEK

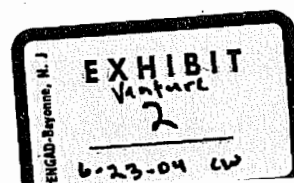
REBUTTAL TESTIMONY OF

RANDY W. HOUDEK

ON BEHALF OF

VENTURE COMMUNICATIONS COOPERATIVE

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is Randy Houdek. I am the General Manager of Venture Communica-  
3 tions Cooperative ("Venture"), whose address is 218 Commercial SE, Highmore,  
4 South Dakota 57345.

5 Q. What is the purpose of your testimony?

6 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
7 testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-  
8 less).

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
13 Once the FCC made it clear that wireline carriers would be required to port num-  
14 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Ven-  
15 ture took immediate steps to investigate the cost and the processes involved with  
16 LNP and to explore its legal options. Because Venture had no experience with LNP,  
17 it took time to gather the pertinent information and to make the decision to seek a  
18 suspension of the requirement from the Commission. Further, the suspension peti-  
19 tion itself took time and effort to prepare because Venture wanted to present as  
20 complete a petition as possible, accompanied by cost information as complete as  
21 possible.

22 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
23 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.

Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "local calls?"

A. I believe that Mr. Williams' statement is not consistent with the interconnection agreement signed by Venture and Western Wireless. Pursuant to that agreement, Venture did not agree to route traffic destined for Western Wireless to the serving tandem. Rather, traffic terminating to Western Wireless is routed to Western Wireless via a direct connection for only three of Venture's exchanges, including their local calling areas. Traffic terminating to Western Wireless in all other Venture exchanges is routed to an interexchange carrier. Only traffic routed to Western Wireless via a direct connection is routed as "local traffic." All other traffic to Western Wireless is routed to an interexchange carrier as a toll call. Therefore, it appears that Western Wireless' argument really is a bad faith attempt to change the agreement between the parties.

Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it is the originating carrier's responsibility to deliver local traffic for termination and that the costs associated with fulfilling that responsibility are not a number portability cost." What is your response to this statement?

A. Mr. Williams' statements are inconsistent and should be rejected. First he argues that Venture should be required to install new facilities to deliver ported calls to Western Wireless and then he argues that the cost of those facilities are not number portability costs. Further, as discussed at lines 3-12 above, Mr. Williams' suggestion that it is Venture's responsibility to deliver traffic destined to Western Wireless

1 through a serving tandem is not consistent with the interconnection agreement be-  
2 tween Venture and Western Wireless.

3 Q. At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
4 Petitioners are inefficient in that they make little or no utilization of existing equipment  
-5 and shared facilities currently used to exchange calls with other carriers." How do you  
6 respond?

7 A. The routing methods reflected in the cost exhibit attached to Venture's Petition are  
8 based on the current routing arrangements that Venture has in place with other  
9 carriers, namely, calls that are dialed on a local 7-digit basis are routed via direct  
10 connections. For example, there is a direct connection between Venture and West-  
11 ern Wireless in the Gettysburg exchange and therefore, Venture customers in that  
12 exchange can call a Western Wireless customer on a local 7-digit basis. Therefore, if  
13 calls to numbers ported to a carrier are to be dialed on a local 7-digit basis, a direct  
14 connection needs to be established between the carriers.

15 Q. Would Western Wireless' routing proposal have impacts to Venture beyond LNP?

16 A. Yes. It is my understanding that Western Wireless' proposal would increase Ven-  
17 ture's costs. First, Western Wireless' proposal would require Venture to pay for  
18 new facilities to the tandem provider that it does not need for any purpose other  
19 than to route calls to ported numbers to wireless carriers. Second, the proposal  
20 would improperly shift to Venture the responsibility to pay Western Wireless' tran-  
21 sit traffic charges to the tandem provider for transporting the traffic to the wireless  
22 carriers.

23 Q. Is there any other impact?

1 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
2 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
3 wireless carriers are routed to interexchange carriers. For example, if Venture Cus-  
4 tomer A calls a Western Wireless customer in an exchange where there is no direct  
-5 connection, Venture Customer A incurs a toll charge. However, under Western  
6 Wireless' proposal, it is my understanding that if Venture Customer A calls a West-  
7 ern Wireless customer with a number ported from Venture, Venture Customer A  
8 would be charged for a local call. Customers may be encouraged to "give up" their  
9 existing wireless numbers and obtain wireline numbers for the sole purpose of port-  
10 ing that number to avoid toll charges. This is not only a bad public policy result,  
11 but also simply a bad faith attempt to avoid an important contract provision upon  
12 which Western has already agreed with our company. It also is very clearly an at-  
13 tempt by Western Wireless to subvert the landline LEC calling areas established by  
14 this Commission that have always been utilized to determine whether landline  
15 originated calls are "local" or "toll" for state regulatory purposes. Western Wire-  
16 less is pressing hard for LNP, but seems to be most interested in avoiding transport  
17 costs and establishing a means by which calls to its service will avoid access charges.  
18 The impact that this will have on local and access rates cannot be overemphasized.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes.

CERTIFICATE OF SERVICE

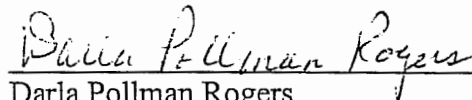
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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Dated this fourteenth day of June, 2004.



Darla Pollman Rogers  
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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

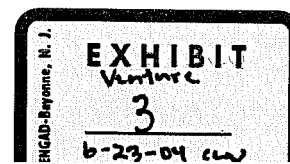
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IN THE MATTER OF THE PETITION  
OF VENTURE COMMUNICATIONS  
COOPERATIVE FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-060

**DIRECT PRE-FILED TESTIMONY OF**  
**JOHN DE WITTE**

May 14, 2004



**DIRECT PRE-FILED TESTIMONY OF  
JOHN DE WITTE**

**Q: What is your name and address?**

A: My name is John M. De Witte. My business address is 1801 N. Main Street, Mitchell, South Dakota 57301.

**Q: By whom are you employed and in what capacity?**

A: I am the Vice President of Engineering of Vantage Point Solutions, Inc. (VPS). VPS is a telecommunications engineering and consulting firm in Mitchell, South Dakota with a full-time staff of 52 employees. Our client base of VPS is made up of rural independent Local Exchange Carriers (LECs). I focus on assisting the small LECs with nearly all technical and financial aspects of their operations. My direct staff of 13 and I have provided engineering, financial, and regulatory services to many of the South Dakota LECs, as well as LECs in several other states.

**Q: What is your educational and business background?**

A: I received a Bachelors of Science in Computer Engineering (1982) from Iowa State University (Ames, IA) and a Masters of Business Administration (1992) from Kennesaw State College (Kennesaw, GA). I am a Registered Professional Engineer in South Dakota and 10 other states.

I have been active in the telecommunications industry since 1983. Previous to VPS, I worked for Martin Group, Inc., based in Mitchell, South Dakota. At Martin Group, I was Assistant Director of Engineering of the Telecom Consulting and Engineering Business Unit, providing engineering and consulting services to rural telecommunications providers throughout the nation. Prior to this, I worked in a variety of engineering, marketing, and management positions at Nortel Networks,



1 Inc., a telecommunications equipment manufacturer in Raleigh, NC and Atlanta,  
2 GA. I am a regular speaker at many state, regional, and national telephone com-  
3 pany organization events, including the National Telephone Cooperative Associa-  
4 tion (NTCA) and the Organization for the Promotion and Advancement of Small  
5 Telecommunications Companies (OPASTCO). In this capacity, I often advise tele-  
6 phone company managers and board members regarding a variety of technical and  
7 financial issues.

8 **Q: On whose behalf are you testifying in this proceeding?**

9 A: My direct pre-filed testimony is submitted on behalf of Venture Communications  
10 Cooperative.

11 **Q: What is the purpose of your testimony?**

12 A: I will provide testimony on technical and cost issues of implementing intermodal  
13 LNP that is pertinent to this hearing.

14 **Q: Are you familiar with current telephone network technologies, including**  
15 **switching equipment, transmission equipment, and outside plant architec-**  
16 **tures?**

17 A: I have provided engineering and consulting services to more than 100 rural LECs  
18 across the United States. I am familiar with nearly all of the technologies and archi-  
19 tectures of a rural LEC network, including transport equipment, switching equip-  
20 ment, digital loop carrier equipment, broadband networks, along with copper and  
21 fiber outside plant cable. I have engineered both landline networks and wireless  
22 networks for my clients.

1 **Q: Do you understand the various methods and requirements that are required to**  
2 **support Intramodal (wireline to wireline or wireless to wireless) and Intermo-**  
3 **dal (wireline to wireless) Local Number Portability?**

4 A: Yes I do.

5 **Q: With the number of variants for LNP, which implementation of LNP is the fo-**  
6 **cus of your testimony?**

7 A: In general, the methodologies, rules, and implementation processes for wireline In-  
8 tramodal LNP are clearly defined, have been in place for several years, and are  
9 widely deployed. The methodologies, rules, and implementation processes for In-  
10 termodal (wireline to wireless) LNP and wireless Intramodal LNP have only been  
11 in place since November 2003. Intermodal LNP relating to wireline to wireless  
12 ports will be the focus of my direct testimony.

13 **Q: What unique challenges are presented to a rural Independent Local Exchange**  
14 **Carrier (ILEC) with the implementation requirements of Intermodal LNP?**

15 A: There are several technical and economic issues facing rural ILECs as they evaluate  
16 the implementation of Intermodal LNP. These challenges for small rural LECs  
17 concern the interconnection of wireless and wireline networks for the purposes of  
18 implementing Intermodal LNP. The Petitioner does not have existing direct points  
19 of connection to wireless carriers' networks in many of the rate centers it serves.  
20 Where there are no direct points of connection with the wireless carriers, only con-  
21 ventional, switched toll routes remain; but no translating, routing, rating or cost re-  
22 covery rules are in place. Some of the questions that need to be addressed include:  
23 (1) where and how should the Petitioner interconnect with the wireless carriers, (2)

1 is the point of interconnection within the LATA, and (3) how will the Petitioner be  
2 able to maintain the original rate center designation and rating when the number is  
3 ported to a point of interconnection that is located outside the original rate center,  
4 when the wireless service area and the Petitioner's service area vary greatly. These  
5 issues are unique in rural areas, such as the Petitioner's service area, where few, if  
6 any interconnection arrangements exist and there are fewer subscribers in compari-  
7 son to metropolitan areas over which to spread the costs of Intermodal LNP. The  
8 uncertainty surrounding these and other questions are likely to cause significant  
9 customer confusion, complaints to the Petitioner and the SDPUC, and the resulting  
10 perception of degraded customer service on the part of the Petitioner's members.  
11 Venture has not received a LNP request from a wireline competitive local exchange  
12 carrier (CLEC); therefore Venture has not previously implemented LNP. As a re-  
13 sult, numerous upgrades in software and operational procedures will be required in  
14 order to meet the Intermodal LNP requirements, which will benefit only those few  
15 subscribers that choose to leave Venture, while encumbering the entire remaining  
16 subscribers with the burden of funding the porting benefit. In addition, current im-  
17 plementation rules do not provide the necessary competitive playing field to allow  
18 wireless subscribers to port to Venture's wireline services, which could benefit a  
19 portion of the Petitioner's subscribers.

20 **Q: What are the anticipated costs of implementing Intermodal LNP?**

21 A: The anticipated costs of implementing Intermodal LNP can be categorized into four  
22 (4) basic areas: 1) Switching related costs, 2) Number Portability Administration  
23 Center (NPAC) related costs, 3) Administrative/Technical costs and 4) Transport

1 Costs. The LNP Petition filed on behalf of Venture included an Exhibit detailing  
2 the estimated implementation costs for intermodal LNP. This Exhibit is attached as  
3 Exhibit [1]. Each of the cost elements in these categories will be identified in the  
4 following paragraphs.

#### 5 Switching Related Costs

6 The cost elements in this category include switching generic software upgrades,  
7 LNP software features, prerequisite software features to support the LNP features,  
8 any requisite switch hardware to support the operation of the LNP software, switch  
9 vendor installation costs, vendor software activation fees, and maintenance ex-  
10 penses attributable to LNP. As part of the cost estimates provided with the Venture  
11 Waiver Petition, the cost estimates for this category are detailed as follows:

#### 12 LNP Hardware Requirements

13 Venture utilizes a Nortel Networks (Nortel) DMS-10 as its wireline switching plat-  
14 form. Venture has verified with Nortel that the existing DMS-10 configuration  
15 does not require any hardware additions to support the activation of LNP software.  
16 Therefore, Venture did not claim any non-recurring or recurring cost estimates for  
17 LNP hardware as part of its estimated costs.

#### 18 LNP Software Features

19 According to oral conversations with Nortel, the Venture DMS-10s currently have  
20 the generic software load that will support LNP. The LNP software features have  
21 not been activated in Venture's DMS-10s. Based on LNP pricing estimates from  
22 Nortel Networks, the non-recurring cost estimate for the LNP Basic software fea-  
23 ture for DMS-10 switches is \$4 per equipped line, which amounts to \$68,700 for

Venture. Nortel does not charge a recurring Right-To-Use (RTU) fee for these features. Based on the information provided by Nortel, Venture claimed \$68,700 for LNP software features and did not claim any recurring cost estimates for LNP software as part of its estimated costs.

#### Additional Software Features

Venture has verified with Nortel that the existing DMS-10 configuration does not require any pre-requisite software additions to support the activation of LNP software. However, if Directory Number Pooling is implemented in South Dakota for LNP, additional software features will require activation. Therefore, Venture claimed \$4,000 in non-recurring costs for this feature as part of its estimated costs.

#### Additional Vendor Fees

Venture participates in Nortel's annual software upgrade program (Nortel's SR-10 program). As a result, Nortel will activate the LNP software feature bits in Venture's DMS-10 switching systems at no charge. Venture plans to use RUS funding for the LNP software charges if they are ultimately required as a result of this hearing. The processing of the RUS paperwork for the LNP software features is estimated at \$5,000. Due to this activity, Venture claimed as a Non-Recurring Additional Software Fee an estimated \$5,000 charge required for feature activation.

#### Initial LNP Translations

There are several activities that are required to initially set up and test the basic translations for LNP. The non-recurring initial translations cost estimates were based on the anticipated fees to data-fill and test basic LNP functionality in the Petitioner's switching system. This testing includes coordination of testing with the

1 SOA provider, coordination of testing with any transiting carriers, verification of  
2 proper LNP dip activities, verification of billing system interaction, and other trans-  
3 lations activities. This cost estimate is approximately \$72,000. In order to allow  
4 time for coordination of testing with other entities, it is assumed that the initial  
5 translations testing will require approximately one (1) man-week of translations ac-  
6 tivities by a 3<sup>rd</sup> party technical consultant for each of its sixteen (16) host switches,  
7 at a loaded hourly rate of \$100 per hour. The remaining portion of this cost esti-  
8 mate includes travel, living and other miscellaneous expenses.

#### 9 Technical Implementation and Testing

10 There are several activities that are required to initially set up and test the basic  
11 translations for each CMRS carrier requesting Intermodal LNP. The non-recurring  
12 technical implementation and testing cost estimates were based on the anticipated  
13 fees to data-fill and test specific Intermodal LNP functionality in the Petitioner's  
14 switching system. The non-recurring technical implementation and testing cost es-  
15 timates were based on performing number porting tests individually associated with  
16 each CMRS to ensure that the ported number route correctly flows through the Peti-  
17 tioner's network. As the FCC has not required a formal Interconnection Agree-  
18 ment, it is assumed that the Petitioner will be responsible for performing these tests  
19 in order to ensure proper call routing. The cost estimate is based on 24 hours of  
20 testing at \$100 per hour for each appropriate exchange by a 3<sup>rd</sup> party resource and  
21 includes travel and living expenses.

1        NPAC Related Costs

2        The cost elements in this category include Service Order Administration (SOA)  
3        costs, LNP Query costs, and connection costs with the LNP database. As part of  
4        the cost estimates provided with the Venture Waiver Petition, the cost estimates for  
5        this category are detailed as follows:

6        Service Order Administration

7        As part of the LNP implementation process, the Petitioner must select a provider to  
8        administer updates to the Number Portability Administration Center (NPAC) LNP  
9        database. In anticipation of reduced porting intervals in the future, the Petitioner  
10       has elected to include the costs for an automated SOA system. The SOA cost esti-  
11       mates were based a compilation of SOA services price lists from several firms pro-  
12       viding automated SOA services. These cost estimates represent the anticipated  
13       start-up costs and recurring costs levied by the SOA provider to utilize its auto-  
14       mated services to update the LNP databases. The sample pricing scenarios were  
15       obtained under Non Disclosure Agreement (NDA) from several SOA services pro-  
16       viders. As the Petitioner has not entered into any contracts with these or any SOA  
17       entities, firm pricing cannot be provided. As an estimate, the non-recurring SOA  
18       costs were assumed to be \$1,800 with the recurring SOA costs assumed to be  
19       \$3,600. Should the Petitioner enter into a contract with an automated SOA pro-  
20       vider, these cost estimates can be revised.

21       LNP Query Charges

22       With the implementation of LNP, the Petitioner will incur charges for each LNP  
23       query launched for its subscribers. The LNP query cost estimates were based on a

1 compilation of SOA services price lists from several firms providing automated  
2 SOA services. The sample pricing scenarios were obtained under NDA from sev-  
3 eral SOA Services providers. As the Petitioner has not entered into any contracts  
4 with these or any SOA entities, firm pricing cannot be provided. The non-recurring  
5 LNP Query cost estimate represents the anticipated start-up costs levied by the SOA  
6 provider to utilize its services to dip its database. This initial set-up charge is as-  
7 sumed to be \$500. The recurring LNP Query cost estimates were based on the as-  
8 sumption that each of the Petitioner's access lines would generate five (5) to six (6)  
9 call attempts per day; each of the call attempts would generate an LNP query. The  
10 query charge is assumed to range between \$0.001 and \$0.0005 per query. Based on  
11 these assumptions, the recurring LNP Query charge was assumed to be \$1,560.  
12 Should the Petitioner enter into a contract with an automated SOA provider, these  
13 cost estimates can be revised.

#### 14 Connection Costs w/LNP Database

15 With the implementation of LNP, the Petitioner will incur set-up charges levied by  
16 the SOA provider to enter its NECA Operating Company Number (OCN) and Point  
17 codes for each switch launching LNP queries to the SOA's LNP database. The  
18 non-recurring connection costs with LNP database estimate was based on a compi-  
19 lation of SOA services price lists from several firms providing automated SOA ser-  
20 vices. The sample pricing scenarios were obtained under NDA from several SOA  
21 Services providers. As the Petitioner has not entered into any contracts with these  
22 or any SOA entities, firm pricing cannot be provided. The cost estimate for this  
23 element was estimated at \$2,400 assuming a maximum of sixteen (16) point codes



1 at \$150 per point code. Should the Petitioner enter into a contract with an auto-  
2 mated SOA provider, this cost estimate can be revised.

### 3 Technical and Administrative Costs

4 The cost elements in this category include testing and verification of each ported  
5 DN, translations for each ported DN, administrative cost estimates, regulatory cost  
6 estimates, customer care cost estimates, and marketing cost estimates. As part of  
7 the cost estimates provided with the Venture Waiver Petition, the cost estimates for  
8 this category are detailed as follows:

#### 9 Testing and Verification of Each Ported Dial Number

10 This cost estimate addresses the anticipated activities to test each “ported out” di-  
11 rectory number (DN) to verify the proper routing of the DN. The recurring Test-  
12 ing/Verification cost estimates were based on one (1) hour per port at the Peti-  
13 tioner’s loaded technical labor costs of \$46 per hour.

#### 14 Per Port Translations

15 This cost estimate addresses the anticipated translations activities to “port out” each  
16 DN. The recurring translations cost estimate was based on \$50 per port.

#### 17 Administrative Costs

18 The implementation of LNP will require Venture to implement new administrative  
19 policies and procedures. The non-recurring administrative cost estimates were  
20 based on providing LNP process training for the Petitioner’s administrative person-  
21 nel. The training is assumed to be provided by the entity providing automated SOA  
22 services. The Petitioner has not selected a SOA provider at this time. The non-  
23 recurring costs estimates are based on a one-week onsite customer service represen-

1 tative training class, including the instructor's travel and living expenses. This cost  
2 is assumed to be \$8,000. The recurring administrative cost estimate addresses the  
3 anticipated administrative activities required with entry of the ported number into  
4 the SOA system. The recurring administrative cost estimates were based on two  
5 and one half (2.5) hours per port at the Petitioner's loaded administrative labor costs  
6 of \$41 per hour.

#### 7 Regulatory Costs

8 This cost element is associated with the Petitioner's Legal Fees and Regulatory  
9 Consulting fees. The legal fees are associated with the Petitioner's attorneys. The  
10 anticipated fees are associated with reviewing the legal aspects of LNP filings and  
11 LNP implementation. The regulatory consulting fees are typically associated with  
12 the updates required to various National databases (NECA Tariff 4, Telcordia  
13 LERG, etc.) and the possible assistance with the completion of the NECA End User  
14 Charge worksheets. This cost is estimated at 100 hours at an average rate of \$150  
15 per hour and includes travel, living, and miscellaneous expenses. Based on the le-  
16 gal activities required to implement LNP, the Petitioner may revise this figure at a  
17 later date.

#### 18 Customer Care Costs

19 The implementation of LNP will require Venture to implement new customer care  
20 policies and procedures. The non-recurring customer care cost estimates were  
21 based on providing LNP customer care training for the Petitioner's administrative  
22 personnel. The training is assumed to be provided by the entity providing the Peti-  
23 tioner's billing platform services. The Petitioner has not developed the Customer

1 Care and Billing processes for LNP at this time. The costs estimates are based on a  
2 one-week onsite Operational Support Services (OSS) training class. The recurring  
3 customer care cost estimates were based on one-half (1/2) hour per port at the Peti-  
4 tioner's loaded customer care labor costs of \$46 per hour. This cost estimate ad-  
5 dresses the anticipated administrative activities required with updating the Peti-  
6 tioner's customer care and billing system and to track the "ported out" DNs.

#### 7 Marketing and Informational Flyer Cost Estimates

8 The implementation of LNP will likely generate subscriber confusion from the ad-  
9 dition of an End User Charge for the implementation of LNP. The Petitioner plans  
10 to develop an informational flyer to help educate the subscriber base by explaining  
11 LNP and the reasons for the proposed LNP End User Charge appearing on the sub-  
12 scribers' monthly local service bill. The non-recurring marketing and informational  
13 flyer cost estimates were based on the costs required to develop an informational  
14 flyer and billing insert explaining LNP and any end-user fees that may apply. The  
15 total non-recurring estimated costs in this category were expressed as a "per access  
16 line" cost and were estimated at approximately \$2.00 per subscriber. This cost es-  
17 timate includes the development of the explanatory LNP text, the graphic design  
18 artwork, and first run printing costs. The recurring marketing and informational  
19 flyer cost estimates were based on \$1.00 per subscriber per year for volume print  
20 costs, handling, and mailing the periodic flyer/bill insert. This recurring market-  
21 ing/informational flyer cost estimate was amortized over 12 months to arrive at an  
22 estimated monthly fee for the Cost Exhibit.

1     Billing/Customer Care Software Updates

2     The Petitioner's billing and customer care system will require software upgrades to  
3     support LNP. The non-recurring billing and customer care software upgrade cost  
4     estimates represents the anticipated costs to upgrade the Petitioner's billing system  
5     to accommodate LNP functionality. This upgrade was estimated as an allocated  
6     cost of the Petitioner's annual billing system upgrade.

7     Transport-Related Cost Estimates

8     The cost elements in this category include the estimated costs of transport to con-  
9     nect the Petitioner's exchange with the CMRS carriers, anticipated cost estimates  
10    for transiting CMRS connections, and anticipated cost estimates for pass-through  
11    N-1 Tandem LNP queries. As part of the cost estimates provided with the Venture  
12    Waiver Petition, the cost estimates for this category are detailed as follows:

13    Transport Cost Estimates

14    The Petitioner will require direct Type 2B DS1 transport facilities from the Peti-  
15    tioner's exchange to each CMRS provider's Point of Interconnection (POI) for  
16    those CMRS carriers requesting intermodal LNP. The Petitioner does not possess  
17    POI information for each CMRS carrier. The non-recurring wireless carriers POI  
18    cost estimates represent the costs associated with providing a Type 2B DS1 span to  
19    each CMRS provider. As stated in the Petition, the Petitioner assumes interconnec-  
20    tion will be required with five (5) CMRS carriers. The Petitioner estimates that the  
21    non-recurring transport costs for each CMRS will be approximately \$4,000 per ex-  
22    change. This cost estimate includes the switch DS1 interface hardware and support-  
23    ing equipment required to place a Type 2B DS1 span into service. The recurring

1 wireless carriers POI cost estimates were based on monthly transport lease cost es-  
2 timates. As stated in the Petition, the Petitioner assumes interconnection will be re-  
3 quired with five (5) CMRS carriers. The cost estimate relating to the recurring  
4 transport costs for each Type 2B DS1 will be approximately \$1,990 per month,  
5 based upon a verbal estimate obtained from SDN Communications. Venture plans  
6 to revise this recurring transport cost estimate once POI information is provided by  
7 the CMRS carriers and firm pricing can be provided by a transport provider (such  
8 as SDN Communications or Qwest).

9 Mobile Telephone Switching Office (MTSO) POI Connection Cost Estimates

10 The Petitioner does not possess POI information for the CMRS carriers that have or  
11 will likely to provide a Bona Fide Request (BFR) to the Petitioner for intermodal  
12 LNP. The possibility exists that a transiting carrier (such as Qwest or SDN Com-  
13 munications) may establish DS1 connections with one or more of the CMRS carri-  
14 ers. The MTSO POI connection cost estimates represent the anticipated costs for  
15 the Petitioner's share of this connection, if required. The non-recurring MTSO POI  
16 connection cost estimates were based on an estimate of the start-up costs to utilize a  
17 transiting carrier for CMRS MTSO connections, if required. The recurring MTSO  
18 POI connection cost estimates were based on the Petitioner's anticipated share of  
19 monthly lease for the transiting carrier MTSO POI connection cost estimates, if re-  
20 quired. If the CMRS carriers elect to directly connect with the Petitioner (without a  
21 transiting carrier) on a direct Type 2B connection to the CMRS' Mobile Switching  
22 Telephone Office (MTSO), these cost estimates will likely be not applicable.

1        Transiting Non-Recurring Dip (Minimum) Cost Estimates

2        This cost estimate was based on the assumption that the transiting carrier may need  
3        to perform some LNP queries when the Petitioner's N-1 carrier fails to do so. The  
4        transiting non-recurring dip cost estimate describes the anticipated costs of the non-  
5        recurring set-up charges to enable the Petitioner to receive dip charges from a tran-  
6        siting carrier, such as SDN Communications. The initial setup charges are likely to  
7        be passed on to Petitioner. Venture has estimated this cost to be \$500. The transit-  
8        ing carrier recurring dip cost estimates describe the anticipated costs of the mini-  
9        mum dip charges from a transiting carrier. These charges are likely to be passed on  
10       to Petitioner. Venture has estimated this cost estimate to be \$100 per month. If the  
11       CMRS carriers elect to directly connect with the Petitioner (without a transiting car-  
12       rier) on a direct Type 2B connection to the CMRS' Mobile Switching Telephone  
13       Office (MTSO), these cost estimates will likely be not applicable.

14    **Q: It appears that one of the larger estimated costs projected for the implementa-**  
15       **tion of Intermodal LNP relates to transport costs. What considerations con-**  
16       **cerning compensation for transport costs are applicable to the implementation**  
17       **of Intermodal LNP?**

18    **A:** With regard to the direct Type 2B connections to the wireless carriers described in  
19       the preceding cost estimates, these cost estimates are identified as required connec-  
20       tions to allow Intermodal LNP to function correctly within the Petitioner's existing  
21       billing and customer care systems.

22    **Q: If no direct Type 2B DS1 facilities are available for interconnection with the**  
23       **CMRS carriers, what happens for Venture?**

1 A: Without direct Type 2B facilities, the ported calls will be routed based on the Local  
2 Routing Number (LRN) delivered with the LNP query. The LRN will contain the  
3 NPA-NXX of the wireless carrier. Based on this NPA-NXX, these calls will be  
4 routed as toll calls over Venture's existing toll routes to Venture's Access Tandem  
5 (SDN Communications).

6 **Q: In your opinion, are the proposed Type 2B DS1 facilities to each CMRS carrier**  
7 **cost justified?**

8 A: Without actual traffic data, it is impossible to determine the feasibility of a particu-  
9 lar facility. However, based on the anticipated traffic levels generated by the pro-  
10 jected intermodal LNP ports, it appears that the construction of these facilities is not  
11 cost-justified. If the facilities were feasible, it is likely that the wireless carriers  
12 would have implemented them already as they have in other areas. Based on the  
13 projected traffic levels, it appears that the direct facilities between Petitioner and the  
14 wireless carriers required for LNP would be highly under-utilized and very ineffi-  
15 cient.

16 **Q: It appears that some of the anticipated cost estimates are based on the quantity**  
17 **of anticipated numbers that would be ported to a CMRS carrier. How was the**  
18 **number of ports determined?**

19 A: The quantity of projected ports is a function of the competitive environment in the  
20 proposed service area, the number of CMRS carriers, and other statistical data.  
21 The data that is currently available concerning porting activity for CMRS carriers  
22 on a wide-scale basis is limited. It is my understanding that no Petitioner cus-  
23 tomer has ever made an inquiry to Petitioner regarding LNP or a request for LNP.

1 With respect to wireless LNP nationwide, to date, the demand for wireless porting  
2 has been far less than expected and most ports have been from one wireless car-  
3 rier to another. Wireline to wireless porting appears to be a small fraction of  
4 wireless porting in general.<sup>1</sup> According to NeuStar, 95% of wireless ports have  
5 been from one wireless carrier to another and only 5% of wireless ports were be-  
6 tween wireline and wireless carriers.<sup>2</sup> With lack of ubiquitous quality and incom-  
7 plete coverage of the Petitioner's existing service area by the existing wireless  
8 carriers, I believe that the percentage would be even smaller than in other more  
9 urban parts of the nation. For purposes of the cost exhibit, approximately two (2)  
10 intermodal ports per month were estimated,<sup>3</sup> which is well under the five (5) per-  
11 cent of the Petitioner's access lines. Accordingly, there appears to be little, if any,  
12 demand for LNP and, absent such demand, no public benefit will be derived from  
13 LNP. Even if some level of LNP demand develops in the future, the total imple-  
14 mentation costs that would be incurred by Petitioner to implement and maintain  
15 LNP would require re-evaluation based on the customer demand, quantity of  
16 ports, and the revised estimated costs for the required LNP infrastructure ele-  
17 ments.

18 **Q: Will any of the Petitioner's estimated costs change if the number of estimated**  
19 **ports is changed?**

---

<sup>1</sup> See "Survey Finds Little Impact From LNP", *RCR Wireless News*, February 9, 2004 ed., reporting that according to a consumer survey report from CFM Direct, very few telecommunications customers have switched their wireline phone numbers to wireless.

<sup>2</sup> See NARUC Notebook, *Communications Daily*, Vol. 24, No. 46, p. 4 (March 9, 2004)

<sup>3</sup> While actual industry figures are not available, most wireless carriers are currently experiencing a porting rate of between three percent (3%) and six percent (6%). Of these ports, it is estimated that between one percent (1%) and three percent (3%) are intermodal.



1 A: Yes. There are several of the estimated recurring costs that are driven by the num-  
2 ber of ports. These cost elements include the recurring translations costs, the recur-  
3 ring testing and verification of each ported number, the recurring administrative  
4 cost estimates, and the recurring customer care costs. If the projected number of  
5 ports increases, these costs will increase. If the number of projected ports de-  
6 creases, these costs will decrease.

7 **Q: The current porting interval is currently four (4) days. If the porting interval**  
8 **were shortened to two (2) days or less, what effect, if any, would this shortened**  
9 **interval have on the estimated costs?**

10 A: The current industry experience with Intermodal porting is has not been without  
11 implementation issues. Significant problems meeting the current four (4) day port-  
12 ing interval have been reported. Assuming that the implementation issues are re-  
13 fined to the point where a shorter porting interval can be supported, the Petitioner  
14 has included the known cost elements to support a shorter porting interval. The Pe-  
15 titioner has assumed the use of an automated SOA system as part of their antici-  
16 pated LNP implementation costs. An automated SOA system will allow the Peti-  
17 tioner to accommodate an electronic request and acknowledgement for the ported  
18 numbers. Therefore, the Petitioner does not anticipate any increases in its SOA re-  
19 lated non-recurring or recurring cost estimates. It is possible that additional recur-  
20 ring costs in the areas of translations, technical implementation, testing, verifica-  
21 tion, customer care, and administrative would occur if the porting interval were to  
22 be reduced to require that porting activities occur outside of the standard business  
23 day (expedited requests, nights, weekends, and holidays). If porting is required dur-

1 ing these times, additional loaded labor rates will be incurred. If the porting re-  
2 quirements are confined to the standard business day, the Petitioner does not antici-  
3 pate any additional recurring LNP costs. However, it is possible that unforeseen re-  
4 quirements could require additional charges.

5 **Q: Are there any other potential costs that could impact Venture with the imple-**  
6 **mentation of Intermodal LNP?**

7 A: If Venture must implement intermodal LNP, all carriers with EAS arrangements  
8 with Venture and their customers will be impacted because the other carrier will  
9 have to LNP dip all EAS calls. This would increase the cost of EAS between Ven-  
10 ture and the other carrier and could result in a loss of EAS options to the customer  
11 or an increase in the cost of optional EAS service.

12 **Q: Some telecommunications industry analysts have suggested that Foreign Ex-**  
13 **change Service (FX) could be used to provide connections to accommodate in-**  
14 **termodal LNP. Is this a reasonable alternative?**

15 A: There have been industry discussions of using an FX service for Intermodal LNP  
16 interconnection. An FX service is a line appearance that is extended from the  
17 "home" exchange to a "foreign" exchange using dedicated point-to-point facilities.  
18 The FX service is engineered on a per line basis. It is not a common trunk that can  
19 be used by a carrier for routing purposes. With an FX service, the LEC has cus-  
20 tomers and facilities in one rate center and provides service to customers in another  
21 rate center using the same "home" number block. To do this, facilities are extended  
22 from the LEC rate center to the foreign rate center where the customer resides. It is  
23 important to note that the customer pays for the use of these facilities. The LEC is

1 compensated for their facilities and lost toll revenue through these customer  
2 charges. It is unknown exactly how an ILEC would implement an FX service to  
3 accommodate Intermodal LNP. The exact connectivity, rate elements, and network  
4 configuration for the proposed Intermodal LNP FX service appear to be undefined.  
5 As such, any discussion of using FX as a viable transport alternative for Intermodal  
6 LNP transport is purely speculation.

7 **Q: You have addressed several estimated costs for Intermodal LNP. How would**  
8 **these cost estimates change if the Petitioner must implement only Intramodal**  
9 **(wireline to wireline) LNP?**

10 A: All cost elements would stay the same, but the amount of the cost estimates could  
11 change. It is my understanding that both wireline providers would be in the same  
12 rate center. Accordingly, the primary change in the estimated costs would be in the  
13 area of transport costs. The petitioner estimates that these costs would likely be  
14 significantly reduced. Intramodal LNP has clearly defined processes for the ex-  
15 change of traffic between the respective wireline carriers competing in a clearly de-  
16 fined rate center. In the intramodal LNP cases with which I am familiar, the carri-  
17 ers have entered into an Interconnection Agreement. The Intramodal Interconnec-  
18 tion Agreement addresses the methods and compensation that will be used to estab-  
19 lish interconnection and exchange traffic between the wireline carriers. The com-  
20 pensation for the traffic volumes is typically in the form of reciprocal compensa-  
21 tion. In addition, the recurring costs for testing of each ported number would likely  
22 be reduced since the dialing plans and routing between the carriers will likely not

1 change on a regular basis. The reduction of these costs is dependent upon the vol-  
2 ume of ports. The remaining costs will likely be unchanged.

3 **Q: What would be the timeframe required for the Petitioner to fully implement,**  
4 **test and place Intermodal LNP into commercial service, if required to do so?**

5 A: Please refer to the LNP Implementation Timeline, attached hereto as Exhibit [2].  
6 The Timeline details the individual, inter-dependent tasks necessary to fully imple-  
7 ment Intermodal LNP. They are arrayed in a self-explanatory fashion, showing the  
8 anticipated duration of each task and its relationship to other tasks. The overall du-  
9 ration that results for the Timeline supports that approximately six (6) months  
10 would be required to fully prepare for, implement, test and place Intermodal LNP  
11 into commercial service, as stated in the Venture Waiver Petition. As with any  
12 planning horizon, this timeline does not take into account holidays or other unfore-  
13 seen delays due to Force Majure.

14 **Q: Does this conclude your direct testimony?**

15 A: Yes. I also reserve the opportunity to revise or modify this pre-filed direct testi-  
16 mony at or before the hearing if I receive additional information pertaining to the  
17 issues I presented herein.

## Exhibit 1

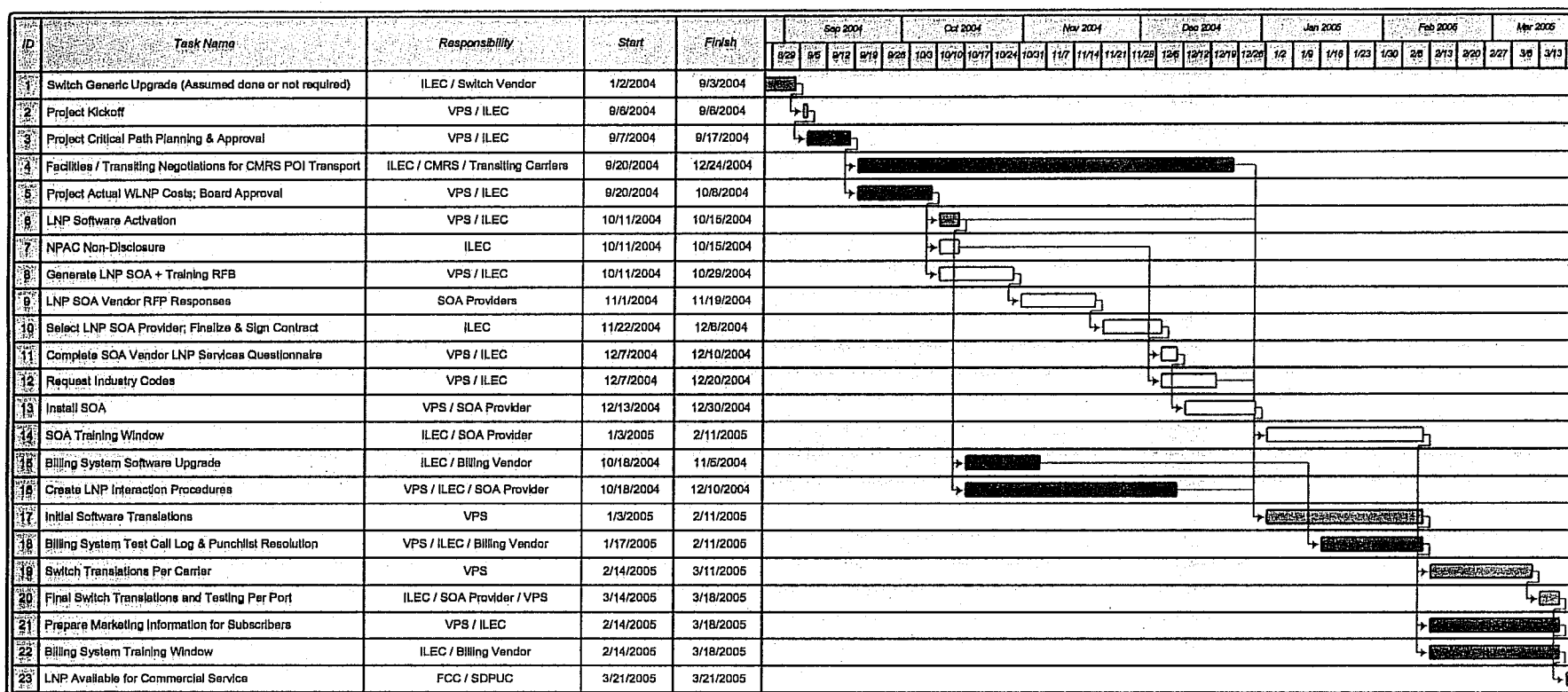
**VENTURE COMMUNICATIONS COOPERATIVE**  
**ESTIMATED COSTS TO IMPLEMENT LOCAL NUMBER PORTABILITY**

	<u>Non- Recurring</u>	<u>Monthly Recurring</u>	
<b><u>Switch-Related Investment Costs:</u></b>			
LNP Hardware Requirements	\$ -		
LNP Software Features	\$ 68,700		
Additional Software Features	\$ 4,000		
Additional Vendor Fees	\$ 5,000		
Translations	\$ 72,000		Initial LNP Basic Translations Costs
Technical Implementation and Testing	\$ 72,500		
<b>Subtotal</b>	<b>\$ 222,200</b>		
<b><u>NPAC-Related Costs:</u></b>			
Service Order Administration	\$ 1,800	\$ 3,600	
LNP Queries	\$ 500	\$ 1,560	(Updated from Original Petition)
Connection Costs w/LNP Database	\$ 2,400	\$ -	
<b>Subtotals</b>	<b>\$ 4,700</b>	<b>\$ 5,160</b>	
<b><u>Technical/Administrative Costs:</u></b>			
Testing/Verification of Each Ported Dial Number	\$ -	\$ 92	Testing/Verification of Ported Dial Number(s)
Translations/Switch Maintenance	\$ -	\$ 100	(Updated from Original Petition)
Administrative	\$ 8,000	\$ 210	
Regulatory	\$ 15,000	\$ -	
Customer Care	\$ 5,000	\$ 50	
Marketing/Informational Flyer	\$ 27,300	\$ 1,140	
Billing/Customer Care Software Upgrades	\$ 5,000	\$ -	
<b>Subtotals</b>	<b>\$ 60,300</b>	<b>\$ 1,592</b>	
<b><u>Transport-Related Costs:</u></b>			
Wireless Carriers Points of Interconnection (POI)	\$ 530,250	\$ 248,580	
Mobile Telephone Switching Office POI Connection	\$ 500	\$ 200	Transiting Carrier MTSO POI Connection
Dip (Minimum)	\$ 500	\$ 100	Transiting Carrier Dip Charges (Minimum)
<b>Subtotals</b>	<b>\$ 531,250</b>	<b>\$ 248,880</b>	
<b>Total Estimated Costs Associated with LNP Implementation</b>	<b>\$ 818,450</b>	<b>\$ 255,632</b>	
<b>Current Access Lines</b>	<b>13,666</b>	<b>13,666</b>	
<b>Total Estimated Costs Per Access Line (Rounded)</b>	<b>\$ 60</b>	<b>\$ 19</b>	
<b>Access Line Impact - First 60-Month Period</b>		<b>\$ 20</b>	

## Exhibit 2

## Exhibit 2

### LNP Implementation Timeline



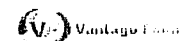
Switching-Related

NPAC-Related

Administrative/Technical

Transport-Related

Revised May 13, 2004







Federal Communications Commission

Washington, D.C.

June 18, 2004

The Honorable Stan Wise  
President, National Association of Regulatory Utility Commissioners  
Commissioner, Georgia Public Service Commission  
225 Washington Street, S.W.  
Atlanta, GA 30334

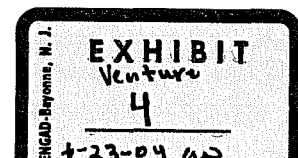
Dear President Wise:

I am writing you, as the president of the National Association of Regulatory Utility Commissioners and representative of NARUC's member commissioners, in connection with requests that small local exchange carriers (LECs) have made to various state commissions for waivers of intermodal number porting obligations.

As you know, the FCC concluded in its *Telephone Number Portability Proceeding* (CC Dkt. No. 95-116) that, by November 24, 2003, LECs generally had to port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the rate center with which the customer's wireline number is associated. Wireline carriers that operate in areas outside the 100 largest Metropolitan Statistical Areas had to provide such number porting no later than May 24, 2004. The FCC granted certain LECs serving fewer than two percent of the nation's subscriber lines a limited waiver of the November 24, 2003 deadline until May 24, 2004.

The Commission has emphasized on many occasions the important competitive and consumer benefits of number portability. The Chief of the FCC's Consumer & Governmental Affairs Bureau noted the benefits of wireline-to-wireless porting in his May 6, 2004, letter to you. The Small Business Administration's Office of Advocacy, however, has raised concerns about the possible economic burden that intermodal number porting may place on LECs that are small businesses, particularly those in rural areas. Those concerns may warrant flexibility in evaluating pending waiver requests by small LECs under Section 251(f)(2). Accordingly, and notwithstanding Chief Snowden's letter, I urge state commissions to consider the burdens on small businesses in addressing those waiver requests and to grant the requested relief if the state commissions deem it appropriate. I also request that you share with NARUC's membership this letter encouraging state commissioners to closely consider the concerns raised by small LECs petitioning for waivers.

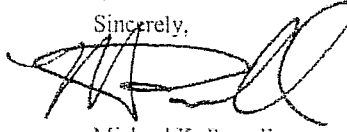
I further urge state commissions, in the course of their deliberations on the pending waiver requests, to encourage parties to develop and submit data relating to the benefits of wireline-to-wireless number portability and the costs of complying with those



obligations, including upgrade costs to the network and routing costs for calls forwarded to carriers. Finally, I encourage parties to submit such information to the FCC for inclusion in our ongoing proceeding in CC Docket No. 95-116 regarding intermodal porting intervals.

Please do not hesitate to call if you would like to discuss these issues further.

Sincerely,

A handwritten signature in black ink, appearing to be 'Michael K. Powell', written over the word 'Sincerely,'.

Michael K. Powell

cc: Commissioner Robert Nelson, Chair, NARUC Telecommunications Committee  
Commissioner Carl Wood, Chair, NARUC Consumer Affairs Committee  
William Maher, Chief, Wireline Competition Bureau  
John Muleta, Chief, Wireless Telecommunications Bureau  
K. Dane Snowden, Chief, Consumer & Governmental Affairs Bureau

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**RECEIVED**

**MAY 14 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

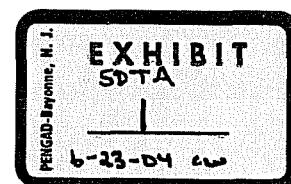
**IN THE MATTER OF THE PETITIONS )  
FOR SUSPENSION OR MODIFICATION ) DOCKETS:  
OF § 251(b)(2) OF THE COMMUNICATIONS )  
COMMUNICATIONS ACT OF 1934 )  
AS AMENDED )**

**TC04-025 – Kennebec Telephone Company  
TC04-038 – Santel Communications Cooperative  
TC04-044 – Sioux Valley Telephone Company  
TC04-045 – Golden West Telecommunications Cooperative  
                  Vivian Telephone Company  
                  Kadoka Telephone Company  
TC04-046 - Armour Independent Telephone Company  
                  Bridgewater-Canistota Independent Telephone Company  
                  Union Telephone Company  
TC04-047 - Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 - Beresford Municipal Telephone Company  
TC04-049 - McCook Cooperative Telephone Company  
TC04-050 - Valley Telecommunications Cooperative Association, Inc.  
TC04-051 - City of Faith Telephone Company  
TC04-052 - Midstate Communications Inc.  
TC04-053 - Western Telephone Company  
TC04-054 - Interstate Telecommunications Cooperative  
TC04-055 - Alliance Communications Cooperative, Inc.  
                  Splitrock Properties, Inc.  
TC04-056 - RC Communications, Inc.  
                  Roberts County Telephone Cooperative Association  
TC04-060 - Venture Communications Cooperative  
TC04-061 - West River Cooperative Telephone Company  
TC04-062 - Stockholm-Strandburg Telephone Company  
TC04-077 - James Valley Cooperative Telephone Company  
TC04-084 - Tri-County Telcom, Inc.  
TC04-085 - Cheyenne River Sioux Tribe Telephone Authority**

**DIRECT TESTIMONY OF**

**STEVEN E. WATKINS**

**Submitted on behalf of above Rural Local Exchange Carriers and  
the South Dakota Telecommunications Association (May 14, 2004)**



1    **I.    INTRODUCTION**

2    **Q1:    Please state your name, business address and telephone number.**

3    **A:**                My name is Steven E. Watkins. My business address is 2120 L Street, N.W.,  
4                       Suite 520, Washington, D.C., 20037. My business phone number is (202) 296-9054.

5    **Q2:    What is your current position?**

6    **A:**                I am Special Telecommunications Management Consultant to the Washington, D.  
7                       C. law firm of Kraskin, Moorman & Cosson, LLC, which provides legal and consulting  
8                       services to telecommunications companies.

9    **Q3:    What are your duties and responsibilities at Kraskin, Moorman & Cosson, LLC?**

10   **A:**                I provide telecommunications management consulting services and regulatory  
11                       assistance to smaller local exchange carriers ("LECs") and other smaller firms providing  
12                       telecommunications and related services in more rural areas. My work involves assisting  
13                       client LECs and related entities in their analysis of regulatory requirements and industry  
14                       matters requiring specialty expertise; negotiating, arranging and administering connecting  
15                       carrier arrangements; and more recently assisting clients in complying with the rules and  
16                       regulations arising from the passage of the Telecommunications Act of 1996 (the "Act").

17                       On behalf of over one hundred and fifty (150) other smaller independent local exchange  
18                       carriers, I am involved in regulatory proceedings in several other states examining a large  
19                       number of issues with respect to the manner in which the Act should be implemented in  
20                       those states. Prior to joining Kraskin, Moorman & Cosson, I was the senior policy  
21                       analyst for the National Telephone Cooperative Association ("NTCA"), a trade  
22                       association whose membership consists of approximately 500 small and rural telephone

1 companies. While with NTCA, I was responsible for evaluating the then proposed  
2 Telecommunications Act, the implementation of the Act by the Federal Communications  
3 Commission (“FCC”) and was largely involved in the association's efforts with respect to  
4 the advocacy of provisions addressing the issues specifically related to rural companies  
5 and their customers.

6 **Q4: Have you prepared and attached further information regarding your background**  
7 **and experience?**

8 **A:** Yes, this information is included in Attachment A following my testimony.

9 **Q5: What is Local Number Portability?**

10 **A:** Local Number Portability (“LNP”) is defined in Section 153 of the Act as:

11  
12 The term “number portability” means the ability of users of telecommunications  
13 services to retain, at the same location, existing telecommunications numbers  
14 without impairment of quality, reliability, or convenience when switching from  
15 one telecommunications carrier to another.

16  
17 This type of number portability is referred to as “Service Provider Portability.”

18 **Q6: What is meant by intermodal porting?**

19 **A:** The term is meant to signify LNP where the number is ported from its prior use by  
20 a wireline telephone company in the provision of “plain old telephone service” (“POTS”)  
21 at a fixed location within a specific geographic area to use by a mobile customer of a  
22 wireless carrier in the provision of mobile service, and vice versa.

23 **Q7: What is meant by intramodal porting?**

1    **A:**               This term means LNP where a number is ported from wireline carrier to another,  
2                    or where a number is ported from one wireless carrier to another, but not when a number  
3                    is ported between two different types of carriers; *i.e.* wireline or wireless.

4    **Q8:   Is number porting a “function” or a “service?”**

5    **A:**               It relates to a functional capability of a carrier. It is the capability of a carrier to  
6                    identify the carrier that is providing service to an end user with a specific number. When  
7                    calls are placed to numbers that may have been ported (*i.e.*, the numbers may be used by  
8                    more than one service provider to provide service to end users), number portability is the  
9                    function of querying a database to determine the identity of the carrier that is serving the  
10                   end user using the specific number in question. Once the identity of the carrier is  
11                   determined using number portability hardware and software, a carrier must also determine  
12                   how a call may and will be switched, routed, and completed. Therefore, number  
13                   portability involves multiple functions – the identification of which carrier is serving the  
14                   end user being called and the completion of the call.

15

16    **II.    PURPOSE OF THIS TESTIMONY**

17    **Q9:   On whose behalf are you testifying?**

18    **A:**               I am testifying on behalf of the rural local exchange carriers that are the  
19                    petitioning parties in dockets captioned above (to be referred to as the “Petitioners”) and  
20                    the South Dakota Telecommunications Association.

21    **Q10:  What is the purpose of your testimony?**

22    **A:**               My testimony addresses whether grant of the Petitions filed by the Petitioners  
23                    seeking suspension of LNP requirements pursuant to Section 251(f)(2) of the

1 Communications Act of 1934, as amended (“Act”) is in the public interest and consistent  
2 with the criteria regarding economic burdens and feasibility.

3 Consistent with 47 U.S.C. § 251(f)(2)(A)(I), grant of the petitions is necessary to  
4 avoid a significant adverse economic impact on the end users of the Petitioners. As will  
5 be demonstrated, the cost to implement LNP in the rural exchanges of the Petitioners is  
6 significant and would lead to explicit surcharges and other potential rate increases to the  
7 rural users beyond that which would be balanced with any benefit to be derived by the  
8 small number, if any, of users that may actually seek to port their wireline service  
9 telephone numbers. Accordingly, suspension of the LNP requirements would avoid these  
10 burdens consistent with the public interest, convenience, and necessity. *See* 47 U.S.C. §  
11 251(f)(2)(B).

12 Consistent with 47 U.S.C. §§ 251(f)(2)(A)(ii) and (iii) of the Act, grant of the  
13 suspensions is also necessary to avoid the imposition of undue economic burdens and  
14 technically infeasible requirements on the petitioners. My testimony provides  
15 background information that sets forth the sequence of events and unresolved issues at  
16 the FCC regarding LNP. Given the specific network and operational characteristics of the  
17 Petitioners, the LNP requirement, if not suspended, would subject the Petitioners to  
18 adverse economic conditions, unnecessary economic burdens and harm, and potentially  
19 technically infeasible requirements. Accordingly, suspension of the LNP requirements  
20 would be consistent with the public interest, convenience, and necessity in that it would  
21 avoid unnecessary attempts to deploy LNP under conditions that would subject the  
22 Petitioners to undue economic burdens and uncertain and infeasible requirements. *See* 47  
23 U.S.C. § 251(f)(2)(B).

1           Therefore, the interests of all parties, including the Petitioners, their customers,  
2           and policymakers, would be better served by the grant of the suspension requests until  
3           such time as there is a balanced policy result consistent with the public interest. Under  
4           current conditions, there would be no such policy balance between the substantial costs  
5           that would be imposed on the public and the potential benefits of LNP in the rural areas  
6           of South Dakota. Suspension of the LNP requirements is also consistent with sound  
7           public policy because it would assure that the public interest would be examined properly  
8           only after all of the relevant implementation issues have been resolved.

9  
10   **III.   RELIEF REQUESTED**

11   **Q11:   What relief is appropriate for the Petitioners?**

12   **A:**           The Commission should extend the current interim suspension of the LNP  
13           requirements for the Petitioners until the conditions confronting the Petitioners, as  
14           explained in this Testimony, have changed such that the per-line cost of LNP is more  
15           reasonable compared to whatever demand, if any, may exist. These factors should be  
16           reviewed in light of the criteria set forth in Section 251(b)(2) of the Act.

17           In any event, any consideration under the criteria of Section 251(b)(2) cannot  
18           occur until after the issues pending before the Courts and the FCC related to the apparent  
19           directives contained in the FCC's November 10, 2003 Order on LNP ("*Nov. 10 Order*")  
20           are fully resolved, including any further and final disposition of the remaining rulemaking  
21           issues and the resolution of the routing issues that the FCC explicitly has left to be  
22           resolved later.

23           Regardless of any future consideration, the Petitioners would need sufficient time



1 after the issues are resolved and circumstances may have changed to acquire and install  
2 the necessary hardware and software and to implement the necessary administrative  
3 processes and business relationships that would be necessary to commence LNP.

4 This relief would avoid the potential waste of resources in an attempt to  
5 implement what are currently a confusing, incomplete and inconsistent set of apparent  
6 requirements that cannot be implemented in any rational manner given the status of the  
7 Petitioners' and the wireless carriers' networks. Without suspension, the Petitioners  
8 would find themselves in the untenable position of attempting to implement some  
9 uncertain service and porting method that may require them to incur costs that may go  
10 unrecovered and may subject their subscribers to much higher basic rates. Moreover, as  
11 explained in this testimony, without suspension, customers may receive bills for calls that  
12 they do not expect; some calls may not be completed to their final destination; and there  
13 will be ensuing customer confusion.

1    **IV.    BALANCING COSTS AND POTENTIAL BENEFITS WITH THE PUBLIC**  
2        **INTEREST**

3    **Q12:    What should the “public interest” determination entail?**

4    **A:**                The determination of the “public interest” should involve an evaluation of the  
5                        costs of LNP implementation and operation compared to the benefits that LNP  
6                        implementation would present for consumers.

7  
8        **A.    THE COSTS OF LNP ARE SUBSTANTIAL.**

9    **Q13:    Are the costs of LNP significant?**

10   **A:**                Yes.    There are significant costs associated with implementing LNP including the  
11                        cost of upgrading switches, accessing the various LNP databases, modifying company  
12                        processes and training company employees.

13   **Q14:    Who would bear the cost of implementing LNP if the Petitioners were required to**  
14        **do so?**

15   **A:**                The subscribers of the Petitioners will bear the costs of LNP either through an  
16                        FCC allowed LNP surcharge or through general increases in basic rates.    Petitioners may  
17                        also be forced to bear some of the cost of implementing LNP to the extent that such cost  
18                        may not be recovered from subscribers or other carriers.

19   **Q15:    But, did not the FCC establish a cost recovery mechanism for the Petitioners?**

20   **A:**                Yes, but that does not address the surcharge and cost recovery burden that would  
21                        be placed on the rural users and does not address whether that result would be consistent  
22                        with the public interest.    These charges would be assessed to all of the Petitioners’ end

1 users regardless of whether any of these end users desire to port numbers to wireless  
2 carriers. The testimony and data provided in this proceeding regarding costs and the  
3 resulting rate implications supports the conclusion that the subscribers of the rural  
4 Petitioners would be shouldering significant rate increases to recover these costs,  
5 regardless of whether any or just a few customers actually port their numbers. This cost  
6 recovery burden would not be balanced with any possible public interest objective given  
7 the lack of demand for LNP and the surcharges that would be imposed to recover the  
8 substantial costs of LNP implementation.

9 **Q16: Are the surcharges and potential basic rate increases to recover the costs of LNP**  
10 **consistent with cost causer principles?**

11 **A:** No. There is an extreme irony here. The very few customers that may want to  
12 port their wireline number from Petitioners to another carrier's service, such as a wireless  
13 carrier's service, will no longer be customers of the Petitioners. The vast majority of  
14 Petitioners' end users that remain will shoulder the charges and costs to the benefit of  
15 only a handful of users that are no longer customers of the LEC. The vast majority of  
16 customers that do not want to port will be forced to foot the bill for the very few that do.

17 **Q17: Will the Petitioners be able to add new customers by porting wireless carriers'**  
18 **customers to the Petitioners' service?**

19 **A:** For the most part, no. The manner in which the FCC put in place intermodal  
20 porting, inconsistent with the reports from the industry workgroup that had been charged  
21 with examining the intermodal issues, means that there is an extreme disparity between  
22 wireline-to-wireless opportunities to port versus wireless-to-wireline. Therefore, for the  
23 most part, Petitioners will be able to lose customers if LNP is implemented, but will not

1 be able to get others back. The necessary methods and rules to allow wireless-to-wireline  
2 porting that would be competitively fair are the subject of a further rulemaking  
3 proceeding before the FCC with no apparent resolution of the geographic disparity issues  
4 that are at the root of the issues. See *Nov. 10 Order* at para. 41-44. In the meantime, a  
5 competitively unfair version of intermodal LNP is in place.

6  
7 **B. THERE IS A LACK OF DEMAND FOR PORTING.**

8 **Q18: Will consumers benefit from the implementation of LNP by Petitioners?**

9 **A:** Central to the evaluation of whether consumers will benefit from the  
10 implementation of LNP is the level of demand that exists for LNP in Petitioners' service  
11 areas. It is my understanding that the Petitioners have not received any inquiries or  
12 requests for LNP. In addition with respect to intermodal portability, in those areas where  
13 intermodal LNP has already been implemented, there appears to be very little demand  
14 from wireline customers to port their numbers to wireless carriers. Rather, the vast  
15 majority of wireless ports appear to be from one wireless carrier to another.

16 **Q19: Does the experience thus far with intermodal LNP have any bearing on the public**  
17 **interest evaluation?**

18 **A:** Yes. Based on readily available information, the demand for wireline-to-wireless  
19 porting for the non-rural, large local exchange carriers has been small. For example,  
20 according to a March 30, 2004 Press Release from the FCC, for the period between  
21 November 24, 2003 and March 25, 2004, there were 6,640 informal complaints received  
22 regarding wireless LNP. The FCC notes that "most of the complaints concern alleged  
23 delays in porting numbers from one wireless carrier to another" and that a "much smaller

1 number of complaints, estimated at just under ten percent of the total, involve alleged  
2 delays in porting numbers from wireline carriers to wireless carriers.” In any event, the  
3 small relative percentage of complaints is likely due to the small number of wireline-to-  
4 wireless ports. Neustar reports that 95% of wireless ports have been from one wireless  
5 carrier to another and only 5% of wireless ports were between wireline and wireless  
6 carriers. *See Communications Daily*, NARUC Notebook, Vol. 24, No. 46, March 9, 2004  
7 at p. 4.

8 Further, I can also report that the February 9, 2004 online edition of *RCR Wireless*  
9 *News* indicated that there had not been much demand for wireline-to-wireless porting as  
10 may have been initially anticipated. The online publication referenced a consumer survey  
11 report compiled by CFM Direct that found that very few telecommunications customers  
12 have switched their wireline phone numbers to wireless. The article quoted Barry  
13 Barnett, executive vice president of CFM Direct, as stating: “Phone portability should  
14 have enticed more landline users to switch to wireless, and although the data we have  
15 doesn’t look at pre-teens, the owners of landline phones are primarily adults. We don’t  
16 see adults making the shift.”

17 While these anecdotes are representative of the experience in the more urban, top  
18 100 MSAs, I would expect the interest in rural areas to be even less. Wireless service is  
19 less ubiquitous in rural areas, and landline users would be more reluctant to abandon  
20 dependable wireline service for a wireless service of less certainty. Generally, for  
21 obvious reasons, users do not abandon their wireline service, in any event, upon their first  
22 use of wireless service in rural areas.

23 Therefore, as a result of the very limited perceived demand for intermodal LNP

1 experienced to date, the significant and higher costs for the smaller carriers, let alone the  
2 technical and operational hurdles and unresolved issues, requiring the Petitioners to rush  
3 to support LNP for intermodal purposes at this point lacks a balanced public interest  
4 benefit. The public interest demands a balanced and thoughtful approach here, which the  
5 grant of the suspension request will allow.

6 **Q20: Can you explain why there is relatively little demand for intermodal LNP?**

7 **A:** Yes. In my opinion, the nature of wireless service in the rural areas of  
8 states like South Dakota is such that the public does not recognize wireless service as an  
9 absolute substitute for wireline service. The quality of service, dependability, and service  
10 record of wireline service makes it the reliable source that rural customers want and  
11 depend on as their fundamental service. On the other hand, as I expect the Commission is  
12 aware from its own experience here in South Dakota, wireless service is not as  
13 ubiquitous, lacks predictable capacity and quality of service, has a lower probability of  
14 call completion, and suffers from dropped calls. All of these factors mean that rural users  
15 who must depend on quality, reliable service due to their remote locations are not going  
16 to abandon their wireline service and convert to mobile service for actual use in their rural  
17 communities. Their demand for wireless service is more for its mobile capability, and  
18 this mobile capability is in addition to their fundamental need for a reliable wireline  
19 phone. For these reasons, mobile wireless service is a complementary service, not a  
20 replacement.

21 Therefore, while some customers may try wireless service, decide that it is  
22 dependable enough, and subsequently drop their wireline service, they do not do so in a  
23 single step, and do not do so with the need to port numbers. In other words, where a

1 customer drops wireline service, it does so without the need to port a number. More  
2 likely, the number of wireline subscribers that will drop wireline service in rural areas and  
3 replace it solely with wireless service would be expected to be very small.

4 My conclusions about lack of demand for wireline-wireless LNP are consistent  
5 with the FCC's own analysis and statements. In July 2003, the FCC concluded that even  
6 though there continues to be increased interest in wireless service:

7  
8 only a small percent of wireless customers use their wireless phones as their only  
9 phone, and that relatively few wireless customers have "cut the cord" in the sense  
10 of canceling their subscription to wireline telephone service.

11  
12 *Eighth Report*, In the Matter of Implementation of Section 6002(b) of the Omnibus  
13 Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market  
14 Conditions With Respect to Commercial Mobile Services, released July 14, 2003, at para.  
15 102.

16 Moreover, the FCC concluded in August 2003 that:

17  
18 . . . despite evidence demonstrating that narrowband local services are widely  
19 available through [Commercial Mobile Radio Service or "CMRS"] providers,  
20 wireless is not yet a suitable substitute for local circuit switching. In particular,  
21 only about three to five percent of CMRS subscribers use their service as a  
22 replacement for primary fixed voice wireline service . . . . Lastly, the record  
23 demonstrates that wireless CMRS connections in general do not yet equal

1 traditional landline facilities in their quality and their ability to handle data traffic.

2  
3 *See Report and Order and Order on Remand and Further Notice of Proposed*

4 *Rulemaking*, Review of the Section 251 Unbundling Obligations of Incumbent Local

5 Exchange Carriers; Implementation of the Local Competition Provisions of the

6 Telecommunications Act of 1996; and Deployment of Wireline Service Offering

7 Advanced Telecommunications Capability, CC Docket Nos. 01-338, 96-98, and 98-147,

8 FCC 03-36, released August 21, 2003, at para. 445.

9 Finally, consistent with these FCC findings, a 2004 Policy Bulletin of the Phoenix  
10 Center for Advanced Legal & Economic Public Policy Studies entitled “Fixed-Mobile  
11 ‘Intermodal’ Competition in Telecommunications: Fact or Fiction?” also comes to the  
12 same conclusions. *See* [www.phoenix-center.org/PolicyBulletin/PCPB10Final.doc](http://www.phoenix-center.org/PolicyBulletin/PCPB10Final.doc). While  
13 the fundamental discussion in the Policy Bulletin is related to the extent of competition  
14 with Bell Operating Companies, the bulletin concludes at p. 1 that wireline and wireless  
15 telephone services are not “close enough substitutes to be effective intermodal  
16 competitors” and at p. 2 that “even though there may be exceptions, consumers generally  
17 do not consider the two services as sufficiently good substitutes . . . .”

18 For all of these reasons, the complementary nature of wireless service means that  
19 very few, if any, wireline customers will want to take the single step, at the same time, of  
20 abandoning wireline service, porting their number to wireless, and take a chance that they  
21 will depend on wireless service. Accordingly, it is not in the public interest for society,  
22 and particularly the rural subscribers of the Petitioners, to incur the cost of implementing  
23 LNP and to divert the limited resources of the Petitioners which are already challenged by



1 their service to sparsely populated areas and relatively lower income customers, for such  
2 small, if any, demand and such a speculative and abstract objective.

3 **Q21: Do the benefits of LNP justify the cost in the cases before the Commission?**

4 **A:** No. Because the facts show that there is little or no demand for LNP, the  
5 significant costs of LNP cannot be justified.

6  
7 **V. OTHER UNRESOLVED IMPLEMENTATION ISSUES RELATED TO THE**  
8 **PUBLIC INTEREST EVALUATION.**

9 **Q22: Are there additional reasons why LNP is not in the public interest?**

10 **A:** Yes. There are other unresolved issues associated with the ultimate routing of  
11 calls to telephone numbers ported to wireless carriers that are relevant to the evaluation  
12 here. Moreover, in the *Nov. 10 Order*, the FCC asked for further comment on whether  
13 the porting interval should be reduced and on how to implement wireless to wireline  
14 LNP. The resolution of these issues is unknown, the manner in which each will be  
15 resolved will further affect the Petitioners and their end users and could require  
16 Petitioners to incur additional costs in connection with LNP. Accordingly, the resolution  
17 of these issues could further impact the LNP cost/benefit analysis.

18 **Q23: Did the FCC's *Nov. 10 Order* on intermodal number portability reconcile the facts of**  
19 **rural LECs with the requirement to provide intermodal LNP when there is no**  
20 **service arrangement with the wireless carrier "in the same location?"**

21 **A:** No. The FCC's *Nov. 10 Order* is, at best, incomplete in that it fails to address  
22 with clarity and completeness the fact that there may be no wireless carrier arrangements

1 in place “at the same location” (which is the situation confronting most of the  
2 Petitioners), the obvious “location portability” aspect of mobile service, or the remaining  
3 rate center disparity issues articulated by the industry workgroup discussed below. Many  
4 of the FCC’s statements in its recent orders on number portability with respect to service  
5 locations of wireline LECs, rate center areas, the geographic scope of the operations and  
6 service offerings of wireless carriers, and mobile users are inexplicably inconsistent with  
7 the facts confronting the Petitioners, previous FCC conclusions, and existing regulation.

8  
9 **A. ROUTING ISSUES**

10 **Q24: Do the unresolved and uncertain aspects of the intermodal number portability**  
11 **requirements cause real world implementation consequences for the Petitioners?**

12 **A:** Yes. The *Nov. 10 Order* does not automatically create service arrangements  
13 between the Petitioners and the wireless carriers. The *Nov. 10 Order* does not clearly  
14 answer questions about the manner in which calls to ported numbers of mobile users will  
15 be treated from a service definition basis, how such calls will be transported to locations  
16 beyond the LECs’ service territories, and over what facilities these calls will be routed.

17 **Q25: What are the so-called “routing” issues?**

18 **A:** Foremost, the wireless carrier to which the number may be ported may not have  
19 any existing service arrangements with the wireline LEC in the specific geographic area  
20 where the wireline LEC provides service using that number (*i.e.*, in the geographic area  
21 that constitutes “the same location”). Accordingly, even if the carriers knew that the  
22 number had been ported to a wireless or wireline carrier providing service in another  
23 location, there would not be any trunking arrangement in place (other than handing off

1 the calls to interexchange carriers) to complete the call. No LEC, including the  
2 Petitioners, has network arrangements for the delivery of local exchange service calls to,  
3 and the exchange of telecommunications with, carriers that operate at distant locations  
4 beyond the LEC's actual service area in which local exchange service calls originate, and  
5 there is no requirement for LECs to establish such extraordinary arrangements. LECs  
6 have no obligation to provide at the request of a wireless carrier, at additional cost and  
7 expense to the LEC, some extraordinary form of local exchange service calling beyond  
8 that which the LEC provides for any other local exchange service call.

9 **Q26: Would you provide an explanation of some of the uncertain aspects of the FCC's**  
10 ***Nov. 10 Order* with respect to so-called "routing" issues?**

11 **A:** The *Nov. 10 Order* neglects to address specific operational and network  
12 characteristics of the smaller LECs such as the Petitioners. In this regard, I note the  
13 statement of the FCC in a subsequent November 20, 2003 Order on number portability  
14 denying a petition challenging the decision:

15  
16 . . . [P]etitioners assert that there is no established method for routing and billing  
17 calls ported outside of the local exchange. We note that today, in the absence of  
18 wireline-to-wireless LNP, calls are routed outside of local exchanges and routed  
19 and billed correctly.

20  
21 What the FCC fails to understand in this statement is that calls routed outside of the  
22 Petitioners' local exchanges are routed to interexchange carriers (IXCs). Therefore, they  
23 are routed and billed correctly as interexchange calls. The Petitioners do not have any

1 obligation to provision local exchange carrier services that involve transport  
2 responsibility or network functions beyond their own networks or beyond their incumbent  
3 LEC service areas. Consequently, if the FCC means to presume that calls outside of the  
4 local exchanges are routed and billed correctly as local calls, the FCC's statement  
5 contained in the second sentence is simply not correct.

6 Furthermore, it is well settled that LECs' interconnection obligations only pertain  
7 to their own networks, not to other carriers' networks or to networks in areas beyond their  
8 own LEC service areas. While the FCC has generally acknowledged a limitation on a  
9 Bell company to route calls no further than to a LATA boundary, the FCC's *Nov. 10*  
10 *Order* apparently failed also to recognize that the Petitioners are physically and  
11 technically limited to transporting traffic to points of interconnection on their existing  
12 network that are no further than their existing service territory boundaries. It is my  
13 understanding that some companies may have extended their access facilities outside their  
14 local networks to provide centralized access services, but these circumstances are  
15 exceptional and, in any event, the LECs are compensated for their provision of access  
16 services to other carriers. For the Petitioners, telecommunications services provided to  
17 end users that involve transport responsibility to interconnection points with other  
18 carriers' networks at points beyond a Petitioner's limited service area and network  
19 generally are provided by IXC's, not by the Petitioner LECs. The involvement of the  
20 Petitioners in such calls is limited to the provision of network functions within their own  
21 networks. As such, for calls destined to points "outside of the local exchange," the IXC  
22 chosen by the end user is responsible for the transport and network functions for the  
23 transmission of the call beyond the Petitioner's network. Accordingly, calls destined to

1 interconnection points beyond the local exchange and service area of a Petitioner are both  
2 “routed” and “rated” by the customer’s chosen IXC.

3 The wireline LEC that may originate calls to a number that has been ported to a  
4 wireless carrier cannot unilaterally provision local calling to this number where there are  
5 no arrangements established with the wireless carrier. Just as the introduction of an EAS  
6 route involves the establishment of interconnection and network and business  
7 arrangements between two carriers, the ability to exchange local exchange service calls  
8 with a wireless carrier also necessitates interconnection and the establishment of the  
9 necessary terms and conditions under which traffic may be exchanged. Interconnection  
10 occurs as the result of a request and the mutual development of terms and conditions  
11 between the carriers for such interconnection. Just as the establishment of an EAS route  
12 does not occur in the absence of negotiation and agreement regarding the network  
13 arrangements and the exchange of traffic, interconnection with a wireless carrier is not a  
14 spontaneous event. The mere deployment of a NPA-NXX, the association of a rate  
15 center point with a specific NPA-NXX, and/or the porting of a wireline telephone number  
16 to a wireless carrier does not automatically establish interconnection or any expectation  
17 that calls can or will be originated as a “local exchange service” call or that calls can be  
18 completed on such basis.

19 **Q27: Do the Petitioners typically have in place direct interconnection arrangements or**  
20 **other service arrangements with all potential wireless carriers that could port**  
21 **numbers?**

22 **A:** No. This is in contrast to Bell companies which typically do have some form of  
23 interconnection and physical trunking arrangements in place with most, if not all, of the

1 wireless carriers that will seek number portability. Quite possibly that would explain  
2 some of the incorrect assumptions which are the apparent basis for some of the FCC's  
3 statements in its *Nov. 10 Order*. These assumptions are apparently the result of assuming  
4 that the experience and operations of the Petitioners are comparable to that of Bell  
5 companies.

6 **Q28: What will be the consequences when a wireline number is ported to a wireless**  
7 **carrier that has no direct interconnection arrangement or other service**  
8 **arrangement in place with the wireline LEC?**

9 **A:** The unresolved issues and the fact that no service arrangement may exist with the  
10 wireless carrier means that there will be carrier and customer confusion. Where there is  
11 no service arrangement between a Petitioner and the wireless carrier to which a number  
12 may have been ported, there will be no trunk over which the LEC could direct local  
13 exchange service calls to the wireless carrier if that is the service that the LEC seeks to  
14 provide to its wireline customers. The Petitioners have only one available option for the  
15 completion of such calls. In such instances, the caller attempting to place a call would  
16 receive a message with the instructions that the call cannot be completed as dialed and  
17 must be completed using an interexchange carrier by dialing 1 plus the 10-digit number.  
18 If the customer dials the ported number in this manner, the LEC would hand such call off  
19 to the interexchange carrier chosen by the originating user, the service is provided by the  
20 interexchange carrier, the routing of the call would be determined by the interexchange  
21 carrier, and the end user would be assessed a toll charge by that interexchange carrier.

22 **Q29: Did the FCC say anything else concerning the routing of calls to wireless carriers in**  
23 **the Nov. 10 Order?**

1    **A:**               Yes. The FCC stated that the routing of calls between wireline and wireless  
2               carriers did not need to be resolved in the LNP docket and, instead, it would be addressed  
3               in the context of a Declaratory Ruling request filed by Sprint still pending before the  
4               FCC.

5  
6               . . . We make no determination, however, with respect to the routing of ported  
7               numbers . . . . [T]he rating and routing issues raised by the rural wireline  
8               carriers have been raised in the context of non-porting numbers and are before the  
9               [FCC] in other proceedings. Therefore, without prejudging the outcome of any  
10              other proceeding, we decline to address these issues at this time as they relate to  
11              intermodal LNP.

12  
13              *Nov. 10 Order*, para. 40, footnotes omitted.

14  
15              **B.       OTHER UNRESOLVED AND UNEXPLAINED ISSUES**

16    **Q30: Why is it necessary to discuss the background and sequence of events leading to the**  
17              **FCC's *Nov. 10 Order*?**

18    **A:**               As I will explain below, the apparent directives in the FCC's *Nov. 10 Order* have  
19               not been logically explained, are not consistent with the FCC's own conclusions and  
20               procedural approach, and leave implementation issues unresolved for the Petitioners. The  
21               conclusions to be drawn from the FCC's *Nov. 10 Order* are still not clear.

1                   1.     **BACKGROUND: NUMBER PORTABILITY CONCEPTS**

2     **Q31: Are there other “types” of number portability other than Service Provider**  
3     **Portability that you discussed earlier in this testimony?**

4     **A:**           Conceptually, yes. The FCC has defined a type of number portability called  
5           “Location Number Portability.” As explained earlier in this Testimony, Service Provider  
6           Portability is the ability of users of telecommunications services to retain, at the same  
7           location, existing telecommunications numbers when switching from one local service  
8           provider to another. In contrast, Location Number Portability is the ability of a  
9           telecommunications service user to retain her or his same telephone number when  
10          moving from one physical location to another.

11   **Q32: Is Location Number Portability part of the definition of the Act?**

12   **A:**           As reflected above, the Act defines “number portability” as the ability for  
13          customers to retain, at the same location, their existing numbers when switching carriers.  
14          The definition contained in the Act is consistent with only the Service Provider Number  
15          Portability definition that the FCC has adopted.

16   **Q33: Has the FCC adopted requirements for Location Portability?**

17   **A:**           No. Location Number Portability involves geographic and other implementation  
18          issues that go beyond those associated with Service Provider Number Portability. With  
19          location portability, there is no longer a relationship between the NPA-NXX of the  
20          telephone number and the geographic area in which an end user obtains service using that  
21          telephone number. Because carriers’ services are based on specific geographic areas and  
22          because carriers currently provision service and switch calls based on NPA-NXXs, the  
23          “porting” of a number within a particular NPA-NXX to a different geographic area means



1 that carriers are unable, with current technology, to determine the proper service  
2 treatment of calls.

3  
4 **2. SERVICE “AT THE SAME LOCATION” ISSUES**

5 **Q34: Can you provide an example of the inability to determine the service treatment of**  
6 **calls?**

7 A: Yes. For example, under current technical capabilities, a carrier would not know  
8 whether a call to a location ported number is to a location that is included within the local  
9 calling area services offered by the LEC to its end users (such as the local exchange and  
10 Extended Area Service (“EAS”) arrangements) or whether the call is to a distant location  
11 that would be an interexchange call subject to provision by the end user’s preferred  
12 interexchange carrier (“IXC”). In the former example, if the call would be between two  
13 end users physically located within the local calling area, the call is treated as a local  
14 exchange service call. In the latter example of a toll call originated in one of the  
15 Petitioners’ service areas, the call is subject to equal access treatment (*i.e.*, the call is  
16 routed to the end user’s presubscribed long distance carrier) and is subject to the terms of  
17 either intrastate or interstate access tariffs, and the rate for the call is determined by the  
18 end user’s chosen IXC. However, because of the real-world, real-time incapability to  
19 know the locations of the two end users involved in the call, implementing any form of  
20 Location Number Portability would wreak havoc on the telephone companies and the end  
21 users they serve unless and until some new and costly network capability could be  
22 developed to determine the location of end users on a real-time basis. Absent this real-  
23 time capability, end users would not be able to know what charges they are incurring and

1 the LECs would not know how to recover their costs related to the call. It is for all of  
2 these reasons the FCC has not required that LECs implement Location Number  
3 Portability at this time.

4 **Q35: Did the FCC conclude that porting numbers from wireline carriers to wireless**  
5 **carriers for use on a mobile basis across the country constitutes location portability?**

6 **A:** No. But the FCC did not explain the illogical consequences of that apparent  
7 conclusion, and those aspects of its orders are the reason why the entire industry has been  
8 left to “scratch its head” with regard to the meaning to attach to the FCC’s statements.  
9 The FCC simply stated its conclusion that porting numbers to a wireless carrier which  
10 allows the wireless carrier to provide service on a mobile basis to customers that move  
11 across the country does not mean that the service is provided beyond “the same location”  
12 and therefore does not, in the FCC’s view, constitute location portability. However, the  
13 FCC failed to explain rationally how the porting of a telephone number for use by a  
14 mobile wireless service user constitutes retention of its use “at the same location.” In any  
15 event, the statement about location portability cannot be reconciled with the facts, and the  
16 FCC did not provide the necessary guidance as to how to reconcile this illogical statement  
17 with the current network realities. When a number is ported for mobile wireless carrier  
18 use, not only will a wireless carrier use that number to provide service to a mobile user  
19 “moving from one physical location to another” -- the exact definition that the FCC  
20 prescribed for the concept of location portability -- but more problematic is that, for the  
21 Petitioners, the number could be ported to a wireless carrier that does not have any  
22 service presence or any interconnection arrangement in the local exchange area associated  
23 with the NPA-NXX number prior to its being ported.

1           As is obvious, the FCC's unsubstantiated statement is contrary, without sufficient  
2 explanation, to the plain language of the Act, and leaves open the unreasonable  
3 possibilities that (1) a number may be ported to a wireless carrier that has no presence,  
4 whatsoever, in the area that constitutes "at the same location;" (2) the wireless carrier can  
5 now port that number for use at many different locations, perhaps across the entire nation,  
6 well beyond the "same service location;" and (3) the wireline LECs operating in "the  
7 same location" have no arrangement, whatsoever, with the wireless carrier to which the  
8 number has been ported in that "same location." Accordingly, the FCC's orders  
9 completely neglect, without sufficient explanation, these circumstances and facts that  
10 render the concept "at the same location" meaningless and the conclusions in the *Nov. 10*  
11 *Order* illogical.

12 **Q36: Are there any issues that arise as a result of wireless carriers using the ported**  
13 **number on a mobile basis?**

14 **A:**           Yes. Despite the simple and unexplained statement by the FCC to the contrary, a  
15 telephone number currently used by a wireline end user at a fixed location that is  
16 subsequently ported to a wireless carrier to be used on a mobile basis automatically  
17 involves the use of that telephone number when moving from one physical location to  
18 another (unless the wireless user intends to fix the location of her or his wireless phone).  
19           The mobile user may not only use the number when moving from one location to another  
20 within the original exchange area, but likely will use the number in a much wider  
21 geographic area including, for most wireless carriers, the ability to place and receive calls  
22 at locations throughout the entire country. Furthermore, the wireless user may  
23 subsequently take his or her wireless phone and move to another state and use that

1 telephone number on a full time basis in that other state. As such, the porting of  
2 telephone numbers from wireline use to wireless mobile use automatically presents both  
3 location portability and service provider portability issues. In the reverse, a mobile user  
4 with a telephone number associated with a rate center area in another state (or at some  
5 distance away from the wireline LEC but within the same state) can nevertheless use his  
6 or her mobile phone in the wireline LEC's local rate center area, but the LEC cannot port  
7 that number from the wireless carrier to the wireline LEC's use. This is the disparate  
8 competitive situation that the FCC's illogical requirements present which is also the  
9 reason why the industry group charged with studying and making recommendations about  
10 intermodal porting has never recommended that it be adopted specifically because of this  
11 geographic disparity issue.

12  
13 **3. THERE HAS BEEN NO RECOMMENDATION FOR**  
14 **INTERMODAL LNP.**

15 **Q37: Prior to the FCC's *Nov. 10 Order*, were the obligations of the Petitioners clear with**  
16 **respect to intermodal porting of a number to a wireless carrier?**

17 **A:** No. The rulemaking process that the FCC put in place to resolve the issues  
18 associated with the disparity in geographic service areas between wireline and wireless  
19 carriers that arise under intermodal porting is still open and the issues are still unresolved.  
20 There had been no recommendation or proposal as to how to resolve all of the  
21 geographic disparity issues associated with intermodal porting.

22 **Q38: What is the rulemaking process that the FCC announced that it would use to**  
23 **examine and adopt rules for wireline-wireless number portability?**

1    **A:**           The FCC recognized in its July 2, 1996 number portability decision that there are  
2           complex definition and implementation issues with respect to wireline-wireless number  
3           portability as compared to wireline-wireline number portability. These complex issues  
4           arose because of the fundamental geographic differences between mobile wireless service  
5           areas and wireline service areas. Accordingly, the FCC did not adopt requirements for  
6           wireless-wireline number portability at the same time as it adopted the initial rules for  
7           wireline-wireline number portability. Instead, in its August 18, 1997 decision, the FCC  
8           decided that it would assign the more difficult wireless-wireline issues to an expert  
9           industry workgroup (the North American Numbering Council or “NANC”) with the  
10          intent that the workgroup would study these issues, develop consensus on solutions, and  
11          then make “recommendations” to the FCC as to how to resolve the outstanding issues.  
12          The FCC’s process, then, involves the development of recommendations by the NANC,  
13          followed by FCC notice of such recommendations, and the allowance of sufficient time  
14          and opportunity for the industry to study the recommendations and comment prior to any  
15          such recommendations becoming a regulatory rule.

16   **Q39: Did the FCC alter this process in its *Nov. 10 Order*?**

17   **A:**           No.

18   **Q40: Has there been a recommendation from the industry expert workgroup regarding**  
19       **porting between wireless carriers and wireline carriers?**

20   **A:**           No, and that is at the heart of the problem here. There has been no explicit  
21          recommendation from the industry workgroup that states the manner in which the  
22          geographic disparity issues arising from intermodal porting would be solved. There have  
23          been reports which attempt to explain the unresolved geographic disparity issues related

1 to porting between wireless and wireline carriers. For example, the NANC reported in  
2 both 1999 and 2000, the last two reports that I am aware of on these issues, that the  
3 industry could not reach consensus on a resolution of the rate center area disparity issues,  
4 and no recommendation on intermodal porting was offered. Nowhere can one find an  
5 explicit and complete recommendation as to how the industry group proposed to solve all  
6 of the disparate geographic, definition, and operational issues necessary to implement  
7 wireline-wireless number portability consistent with the statutory requirements.

8 To add further confusion and uncertainty to this process, the geographic disparity  
9 issues were originally related to Location Number Portability, not Service Provider  
10 Number Portability. Based on my review of the reports, it appears that early in their  
11 deliberations the industry workgroup concluded that if and when Location Number  
12 Portability is implemented, the location porting of a number must nevertheless be limited  
13 to service within the same rate center. This condition of confining portability to the same  
14 rate center area was relevant solely to Location Number Portability, not Service Provider  
15 Number Portability. However, the rate center area disparity issue has been inexplicably  
16 confused, and the condition of confinement of portability to the same rate center area  
17 somehow, over time and without clear explanation, apparently became part of the Service  
18 Provider Number Portability considerations, despite the fact that this form of portability is  
19 already defined by statute to be "at the same location."

20 **Q41: Based on your understanding of the NANC recommendations made to date, is there**  
21 **one that you can point to that resolves the issues that you have identified regarding**  
22 **intermodal porting?**

23 **A:** No. Regardless of the confusing course, one cannot find a clear recommendation

1 from the NANC as to how to reconcile these outstanding intermodal porting issues  
2 (whether for location or service provider portability), much less any document or  
3 proposals that constitutes a clear proposal for comment. The facts are: (1) the disparity in  
4 the geographic aspects of wireline and wireless service still remain; (2) when a number is  
5 ported to a mobile user, the wireless carrier that is the new service provider may not have  
6 any intercarrier network interconnection or service arrangements in place in the original  
7 rate center area; (3) the mobile user will most certainly use that number when moving  
8 from one location to another; and (4) in all likelihood, the mobile user will use that  
9 telephone number in a different rate center than the rate center with which it was  
10 originally associated. "At the same location" has been rendered meaningless without  
11 proper explanation.

12 **Q42: What conclusions can you draw as a result of this sequence of events?**

13 **A:** The Petitioners had no reason to expect that intermodal number portability,  
14 inconsistent with the general understanding of the statute, existing regulation, and the  
15 status of industry workgroup efforts, was yet required.

16 **Q43: What has been the response of the LEC industry to the FCC's action?**

17 **A:** It is not surprising that the industry has responded with Court action challenging  
18 the *Nov. 10 Order*.

19 **Q44: What is the status of these proceedings?**

20 **A:** All of these matters await substantive action.

21 **Q45: Why are all of these uncertainties relevant to the instant requests for suspension?**

22 **A:** Because the uncertainties raise the distinct specter that the Petitioners will be  
23 making human and economic investments and expending real work resources all in an

1 effort to make a good faith effort to implement LNP when their requirements are unclear.  
2 Magnifying this problem, my understanding is that no, or very few, wireline customers of  
3 the Petitioners have requested to port a number for wireless use. The real world concern  
4 is that these costs could be incurred and would be reflected in end user rates without any  
5 real purpose or potential benefit that would be afforded to customers. Moreover, after  
6 these issues are resolved, Petitioners may find that they would be required to modify their  
7 previous implementation activity at additional cost.

8 The requested relief would preclude the potential waste of resources in an attempt  
9 to implement what are currently a confusing, incomplete and inconsistent set of apparent  
10 requirements. As such, the requested relief is fully consistent with the public interest and  
11 would recognize the infeasibility of the Petitioners moving forward with efforts based on  
12 unknown and ambiguous FCC directives. The requested action would also avoid the  
13 significant adverse economic impact on the Petitioners' end users and undue economic  
14 burden that will result from an attempt to comply under these uncertain conditions.

15 Without suspension, the Petitioners would find themselves in the untenable  
16 position of attempting to implement some way in which numbers would be ported to  
17 wireless carriers. However, in such case, as explained in this testimony, some calls may  
18 not be completed to their final destination, there will be ensuing customer confusion,  
19 customers may receive bills for calls that they do not expect, and the Petitioners will incur  
20 costs that may go unrecovered.



1                   **4. LACK OF ANY LOGICAL APPLICATION OF THE “RATE CENTER**  
2                   **AREA” CONCEPT TO MOBILE USERS.**

3   **Q46: Do you agree that it appears that much of the discussion and apparent directives of**  
4       **the FCC depend on so-called rate center areas?**

5   **A:**           Yes.

6   **Q47: What is a rate center area?**

7   **A:**           A rate center area is a specific geographic area. Telephone number codes (NPA-  
8       NXXs) are assigned and associated with rate center areas with the assumption that these  
9       numbers will be used to provide service exclusively within that rate center area (except in  
10      the case of wireless carrier mobile users). However, the fact that wireless carriers may  
11      not use the NPA-NXX to provide mobile service to the end user in the same rate center  
12      area with which the NPA-NXX is associated for wireline service (and similarly a wireless  
13      carrier may use a specific NPA-NXX associated with one specific rate center area to  
14      provide mobile service in a different wireline rate center area) is at the crux of the  
15      geographical rate center area disparity issue between wireless carriers and wireline  
16      carriers that has not been resolved.

17               Within a rate center area, there is a designated rate center point (vertical and  
18      horizontal coordinates) that carriers may use to calculate airline miles between any two  
19      rate center points. The rate center point is a geographic point that is intended to be the  
20      representative point for the entire rate center area for purposes of mileage calculation.

21               The concept of “rate center areas” was developed originally for purposes of  
22      calculating charges for interexchange services where the rates were based on mileage.

23      Almost no calling services today depend on mileage. Some carriers’ billing and service

1 administrative processes depend on industry databases (the “Local Exchange Routing  
2 Guide” or “LERG”) that associate NPA-NXX telephone numbers with specific rate center  
3 areas. However, many small LECs have no need for such reliance and do not necessarily  
4 utilize such database tools because they provision their own local exchange carrier  
5 services on an individual case basis, based on specific geographic areas included within  
6 their local calling area and the establishment of unique physical trunking between those  
7 geographic areas.

8 To add to the confusion, the FCC has attempted to extend the use of the word  
9 “rate” (with respect to a call) beyond its original meaning, apparently now to mean the  
10 determination by a LEC of whether a call is within the definition of what the LEC offers  
11 and provides as local exchange service, or whether the call is not. The determination of  
12 whether a call, when dialed, is a local exchange service call or an interexchange service  
13 call is simply a service definition determination, not rating. As explained in this  
14 testimony, the determination of whether a call is a local exchange service call or an  
15 interexchange service call is based on the location of the calling and called parties. Under  
16 the traditional use of the word, the Petitioners do not generally “rate” local exchange  
17 service calls, at all. These calls are part of an unlimited service for which no “rating” is  
18 necessary or applied. Rating was originally a concept relevant only to interexchange  
19 services, and the rate center points (V&H) were used to determine the “rate” for the call.  
20 But interexchange services are no longer rated based on mileage, the only “rating” that  
21 takes place for interexchange service calls is in the determination of whether the  
22 interexchange service call is intrastate or interstate in nature, based on the V&H  
23 coordinates of the called and calling parties, and the duration of the call.

1 **Q48: Are LECs required to rely on rate center information of other carriers contained in**  
2 **industry databases in their provisioning of intrastate local exchange carrier**  
3 **services?**

4 **A:** No. I am aware of no federal regulatory requirement which requires LECs,  
5 including the Petitioners, to utilize LERG data that associates a specific NPA-NXX with  
6 a specific rate center area as the sole means to determine the scope of local exchange  
7 services to be offered to their own customers. Of particular note, as explained below,  
8 even the FCC has concluded that this information is generally meaningless with respect to  
9 mobile wireless service. The industry's NPA-NXX assignment guidelines, endorsed by  
10 the FCC, which include the administrative processes for the association of a rate center  
11 area with an NPA-NXX code, also recognize that not all carriers utilize this information  
12 for the definition and billing of services. Many small LECs do not depend solely, nor are  
13 they required to do so, on the unsupervised information that other carriers submit for  
14 inclusion in the industry database as the means to provision their local exchange services.  
15 These LECs may, however, refer to this information as a tool to identify other carriers  
16 and their apparent operations.

17 In summary, I am unaware of any federal regulatory requirement that carriers must  
18 determine the jurisdiction of a call, or must provision specific local exchange carrier  
19 services, based on rate center points that other carriers associate with NPA-NXXs. In  
20 fact, the FCC has concluded previously that the telephone number does not determine the  
21 jurisdiction of a call when the calling and called parties' locations do not relate to the  
22 geographic area associated with the NPA-NXX. The FCC has used the example of  
23 callers in the multi-state area surrounding the District of Columbia to illustrate this fact.

1 Because wireless carrier mobile users often cross state lines and are mobile, a cellular  
2 customer with a telephone number associated with Richmond, Virginia may travel to  
3 Baltimore, Maryland. A call between the mobile user in Baltimore and, for example, a  
4 wireline end user in Alexandria, Virginia might appear to be an intrastate call “placed  
5 from a Virginia telephone number to another Virginia telephone number, but would in  
6 fact be interstate . . .” 11 FCC Rcd 5020, 5073, *In the Matter of Interconnection*  
7 *Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, and*  
8 *Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio*  
9 *Service Providers*, CC Docket Nos. 95-185 and 94-54, (1996) at para. 112, underlining  
10 added. Similarly, while a call between a wireline end user in Richmond to the mobile  
11 user in Baltimore might also appear to be an intrastate call because the call is placed from  
12 a Virginia telephone number to another number that also appears to be associated with  
13 Virginia, but this call would also in fact be an interstate call. When one end of the call is  
14 in Maryland and the other is in Virginia, the call is interstate. The telephone numbers  
15 assigned to the users do not determine the jurisdiction.

16 **Q49: Does the concept of a rate center area and its association with an NPA-NXX make**  
17 **sense with respect to telephone numbers assigned to mobile users of wireless**  
18 **carriers?**

19 **A:** No. It is nonsensical to associate a specific geographic area to a user that, by  
20 definition, is expected to be, and most likely will be, mobile across large areas, including  
21 potentially across the entire nation. The telephone number does not determine the  
22 location of the mobile user. For jurisdictional determinations, the actual physical  
23 location of the mobile user determines whether a call is intrastate or interstate. For

1 interconnection purposes, *i.e.* to determine whether a call is within a Major Trading Area  
2 (“MTA”) or between two MTAs (*i.e.*, intraMTA or interMTA), the location of the cell  
3 site serving the mobile user at the beginning of the call is used as the surrogate for the  
4 actual geographic service location of the mobile user, not the telephone number. I am not  
5 aware of any FCC regulation that requires that the location of a mobile user be based on  
6 the telephone number or NPA-NXX used by that mobile user.

7 **Q50: Do others share your views about the lack of any geographic relationship between**  
8 **rate center areas and mobile users?**

9 **A:** Yes. My views are exactly consistent with the FCC’s conclusions. In its October  
10 7, 2003 number portability order related to wireless-wireless porting, the FCC concluded  
11 (at para. 22) that “[b]ecause wireless service is *spectrum-based and mobile in nature*,  
12 *wireless carriers do not utilize or depend on the wireline rate center structure to provide*  
13 *service*: wireless licensing and service areas are typically much larger than wireline rate  
14 center boundaries, and wireless carriers typically charge their subscribers based on  
15 minutes of use rather than location or distance.” (emphasis added). The FCC’s  
16 conclusion confirms that the specific geographic areas known as rate center areas for  
17 wireline LECs have no relevance to the services offered to, or provided to, the typical  
18 mobile user of the large wireless carriers.

19 **Q51: You discuss intermodal LNP at great lengths. Does that mean that there are no**  
20 **obstacles or burdens associated with intramodal LNP?**

21 **A:** No. For most small and rural LECs, it is intermodal porting brought on by the  
22 FCC’s *Nov. 10 Order* that has precipitated the need for the suspension request by the  
23 Petitioners. However, implementing LNP for intramodal porting would present similar

1 cost burdens and potential imbalance between benefits and costs with similar public  
2 interest implications. Furthermore, there are still those unresolved issues yet to be  
3 decided such as the porting interval that would impact implementation of intramodal  
4 porting the same as for intermodal porting.

5  
6 **V. CONCLUSION**

7 **Q52: What conclusions do you draw from your discussion of LNP?**

8 **A:** Even if the unexplained and uncertain issues discussed in this Testimony were to  
9 be resolved properly, the costs of implementing LNP in the rural Petitioners' exchanges  
10 would unjustly burden the rural customers with higher rates to support a capability that  
11 would benefit only a few, if any, customers that may want to port their number. Further,  
12 with respect to wireless LNP, the evidence is that there would be little, if any, demand by  
13 rural customers to abandon wireline service and completely substitute wireless service.  
14 The costs to deploy number portability are significant and would burden unnecessarily the  
15 customers of the Petitioners without any clear or balanced public interest benefit. Given  
16 these circumstances, the Petitioners should not be forced to incur substantial costs, to  
17 redirect their limited resources into otherwise unnecessary or misguided efforts in an  
18 attempt to comply with a confusing and incomplete set of apparent requirements, and  
19 burden their rural users with rate increases for only speculative, if any, benefits. Such a  
20 result would not be consistent with the public interest.

21 With respect to the incomplete and unexplained aspects of the FCC's *Nov. 10*  
22 *Order*, the Petitioners are placed in an untenable position – although carriers are required  
23 to implement LNP if there is a request, the implementation requirements are incomplete

1 and subject to change and. Further, with respect to intermodal LNP, the implementation  
2 requirements (a) have not been properly established or logically explained; (b) are based  
3 on assumptions that are inconsistent with the experience and operations of the Petitioners;  
4 and/or (c) are inconsistent with the facts and existing regulations. Accordingly, these  
5 shortcomings make the fulfillment of intermodal LNP infeasible and unduly economically  
6 burdensome under uncertain terms. The Petitioners continue to have concerns about the  
7 routing and completion of calls to intermodal ported numbers, the resulting confusion on  
8 the part of customers about how to complete calls and the charges for such calls, and the  
9 ensuing customer dissatisfaction with the Petitioners, as well as with federal and state  
10 regulators, created by this state of uncertainty. Any attempt to implement LNP under  
11 these circumstances would result in the imposition of undue economic burdens on the  
12 Petitioners and their customers -- a result not consistent with the public interest.

13           The interests of all of the parties -- the Petitioners, their customers, and the  
14 Commission -- will be better served by the grant of a suspension until such time as the  
15 demand for LNP and the costs are balanced consistent with a rational public interest  
16 determination and the apparent requirements can be satisfied in an orderly and thoughtful  
17 manner. If the Petitioners are required to implement counter-productive, uncertain, or  
18 infeasible requirements, customers will ultimately bear the harm in the form of greater  
19 costs and a redirection of carriers' resources away from more valuable and worthy efforts.  
20 The implementation and network issues associated with number portability in the rural  
21 areas served by the Petitioners are real and should be addressed in the interest of the  
22 overall public, not just with respect to the interests of a very few customers and wireless  
23 carriers that may want wireline-wireless number portability at the otherwise greater

1 expense to the vast majority of users. Grant of the suspension would serve an overall  
2 and balanced consideration of the public interest.

3 For the reasons set forth in this testimony, implementation of LNP pursuant to the  
4 FCC's apparent directives would result in economic harm in the form of unnecessary  
5 resource burdens on the Petitioners and their customers in the form of higher costs and  
6 rates, undue economic burdens for the small LECs potentially affected by the uncertain  
7 directives, and an apparent requirement for service provision that is not technically  
8 feasible under current conditions. Each one of these conclusions provides a more than  
9 sufficient basis for suspension of the LNP requirements consistent with the relief  
10 requested by the Petitioners. Suspension of the LNP requirements will avoid the adverse  
11 economic impacts set forth in Section 251(f)(2)(A) of the Act, will avoid technically  
12 infeasible requirements, and would be consistent with the Section 251(f)(2)(B) public  
13 interest, convenience, and necessity criteria.

14 These conclusions provide a more than sufficient basis for suspension of the  
15 requirements under the conditions and time frames requested by the Petitioners.

16 **Q53: Does this end your testimony?**

17 **A:** Yes.



## **SUMMARY OF WORK EXPERIENCE AND EDUCATION**

**Steven E. Watkins**

**May 2004**

My entire 28-year career has been devoted to service to smaller, independent telecommunications firms that primarily serve the small-town and rural areas of the United States.

I have been a consultant with the firm of Kraskin, Lesse & Cosson, LLC since June, 1996. The firm concentrates its practice in providing professional services to small telecommunications carriers. My work at Kraskin, Lesse & Cosson, LLC, has involved assisting smaller, rural, independent local exchange carriers ("LECs") and competitive local exchange carriers ("CLECs") in their analysis of a number of regulatory and industry issues, many of which have arisen with the passage of the Telecommunications Act of 1996. I am involved in regulatory proceedings in several states and before the Federal Communications Commission on behalf of small LECs. These proceedings are examining the manner in which the Act should be implemented. My involvement specifically focuses on those provisions most affecting smaller LECs.

I have over the last seven years instructed smaller, independent LECs and CLECs on the specific details of the implementation of the Act including universal service mechanisms, interconnection requirements, and cost recovery. On behalf of clients in several states, I have analyzed draft interconnection agreements and conducted interconnection negotiations and arbitrations pursuant to the 1996 Act.

For 12 years prior to joining Kraskin, Lesse & Cosson, LLC, I held the position of Senior Industry Specialist with the Legal and Industry Division of the National Telephone Cooperative Association ("NTCA") in Washington, D.C. In my position at NTCA, I represented several hundred small and rural local exchange carrier member companies on a wide array of regulatory, economic, and operational issues. My work involved research, analysis, formulation of policy, and expert advice to member companies on industry issues affecting small and rural telephone companies.

My association work involved extensive evaluation of regulatory policy, analysis of the effects of policy on smaller LECs and their rural customers, preparation of formal written pleadings in response to FCC rulemakings and other proceedings, weekly contributions to association publications, representation of the membership on a large number of industry committees and task forces, and liaison with other telecom associations, regulators, other government agencies, and other industry members. I also attended, participated in and presented seminars and workshops to the membership and other industry groups too numerous to list here.

For those not familiar with NTCA, it is a national trade association of approximately 500 small, locally-owned and operated rural telecommunications

providers dedicated to improving the quality of life in rural communities through advanced telecommunications. The Association advocates the interests of the membership before legislative, regulatory, judicial, and other organizations and industry bodies.

Prior to my work at NTCA, I worked for over eight years with the consulting firm of John Staurulakis, Inc., located in Seabrook, Maryland. I reached a senior level position supervising a cost separations group providing an array of management and analytical services to over 150 small local exchange carrier clients. The firm was primarily involved in the preparation of jurisdictional cost studies, access rate development, access and exchange tariffs, traffic analysis, property records, regulatory research and educational seminars.

For over ten years during my career, I served on the National Exchange Carrier Association's ("NECA") Industry Task Force charged with reviewing and making recommendations regarding the interstate average schedule cost settlements system. For about as many years, I also served in a similar role on NECA's Universal Service Fund ("USF") industry task force.

I graduated from Western Maryland College in 1974 with a Bachelor of Arts degree in physics. As previously stated, I have also attended industry seminars too numerous to list on a myriad of industry subjects over the years.

During my career representing small telecommunications firms, I estimate that I have prepared formal written pleadings for submission to the Federal Communications Commission on behalf of NTCA member and Kraskin, Lesse & Cosson client LECs in over two hundred proceedings. I have also contributed written comments in many state proceedings on behalf of Kraskin, Lesse & Cosson client LECs. I have provided testimony in proceedings before the Georgia, Pennsylvania, Indiana, Kentucky, Missouri, Nebraska, Minnesota, Montana, Tennessee, Kansas, South Carolina, New Mexico, West Virginia, and Louisiana public service commissions. Finally, I have testified before the Federal-State Joint Board examining jurisdictional separations changes.

## CERTIFICATE OF SERVICE

I hereby certify that an original and ten (10) copies of the foregoing Direct Testimony of Steven E. Watkins was were hand-delivered to the South Dakota PUC on May 14, 2004, directed to the attention of:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

A copy was sent by U.S.P.S. First Class Mail to:

Talbot Wieczorek  
Gunderson Palmer Goodsell Nelson  
440 Mount Rushmore Road  
Rapid City, SD 57701

David Gerdes  
May, Adam, Gerdes & Thompson  
P.O. Box 160  
Pierre, SD 57501

Dated this 14th day of May, 2004.



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Richard D. Coit, General Counsel  
South Dakota Telecommunications Association  
PO Box 57 – 320 East Capitol Avenue  
Pierre, SD 57501-0057

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

**RECEIVED**

JUN 14 2004

IN THE MATTER OF THE PETITIONS FOR )  
SUSPENSION OR MODIFICATION OF )  
§ 251(b)(2) OF THE COMMUNICATIONS )  
ACT OF 1934 AS AMENDED )

DOCKETS: SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

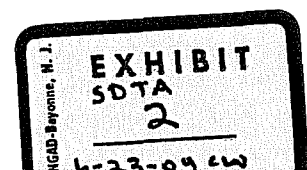
TC04-025 - Kennebec Telephone Company  
TC04-038 - Santel Communications Cooperative  
TC04-044 - Sioux Valley Telephone Company  
TC04-045 - Golden West Telecommunications Cooperative  
Vivian Telephone Company  
Kadoka Telephone Company  
TC04-046 - Armour Independent Telephone Company  
Bridgewater-Canistota Independent Telephone Company  
Union Telephone Company  
TC04-047 - Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 - Beresford Municipal Telephone Company  
TC04-049 - McCook Cooperative Telephone Company  
TC04-050 - Valley Telecommunications Cooperative Association, Inc.  
TC04-051 - City of Faith Telephone Company  
TC04-052 - Midstate Communications Inc.  
TC04-053 - Western Telephone Company  
TC04-054 - Interstate Telecommunications Cooperative  
TC04-055 - Alliance Communications Cooperative, Inc.  
Splitrock Properties, Inc.  
TC04-056 - RC Communications, Inc.  
Roberts County Telephone Cooperative Association  
TC04-060 - Venture Communications Cooperative  
TC04-061 - West River Cooperative Telephone Company  
TC04-062 - Stockholm-Strandburg Telephone Company  
TC04-077 - James Valley Cooperative Telephone Company  
TC04-084 - Tri-County Telcom, Inc.  
TC04-085 - Cheyenne River Sioux Tribe Telephone Authority

REBUTTAL TESTIMONY OF

STEVEN E. WATKINS

Submitted on behalf of above Rural Local Exchange Carriers and  
the South Dakota Telecommunications Association

June 14, 2004



1 Q1: **Please state your name, business address and telephone number.**

2 A: My name is Steven E. Watkins. My business address is 2120 L Street, N.W., Suite 520,  
3 Washington, D.C. 20037. My business telephone number is (202) 296-9054.

4 Q2: **On whose behalf are you testifying?**

5 A: I am testifying on behalf of the rural local exchange carriers that are the petitioning par-  
6 ties in dockets captioned above (to be referred to as the "Petitioners") and the South  
7 Dakota Telecommunications Association.

8 Q3: **Have you previously submitted testimony in these proceedings?**

9 A: Yes. I submitted direct testimony on May 14, 2004 in these dockets (to be referred to as  
10 "Watkins Direct").

11 Q4: **What is the purpose of your Rebuttal Testimony?**

12 A: The primary purpose of this Rebuttal Testimony is to respond to the Direct Testimony  
13 filed by Ron Williams on behalf of Western Wireless.

14 Q5: **Do you have any initial comments relative to these dockets?**

15 A: Yes. Only one wireless carrier filed testimony in these proceedings, even though there  
16 must be other wireless carriers operating in South Dakota.

17 Q6: **To what do you attribute this lack of interest in LNP in South Dakota by wireless  
18 carriers other than Western Wireless?**

19 A: The fact that other wireless carriers have decided not to participate in this proceeding and  
20 not to submit testimony is consistent with the general observations and conclusions in my  
21 Direct Testimony that there are few, if any, wireline end users in rural South Dakota that  
22 actually want to abandon, or would abandon, their wireline service and port their wireline  
23 number for use solely in connection with wireless service. There is no real demand for

1 intermodal porting in rural South Dakota and the lack of participation is more evidence of  
2 that fact. As such, the other wireless carriers seem to accept and to understand that de-  
3 mand for intermodal LNP would be non-existent or small in rural South Dakota areas,  
4 and therefore have apparently concluded that spending their time and resources attempt-  
5 ing to force, merely on principle, an unnecessary LNP requirement on rural LECs would  
6 lack a business purpose.

7 Similarly, I would like to add that Western Wireless has also previously con-  
8 cluded in comments filed with the Federal Communications Commission ("FCC") that  
9 "LNP is unnecessary to further competition." Reply Comments of Western Wireless  
10 filed October 21, 2001, in WT Docket No. 01-184 at pp. 2-5 (a proceeding in which Ver-  
11 izon Wireless was seeking partial forbearance of LNP requirements). Western Wireless  
12 noted that, as a provider of conventional cellular and wireless local loop services, "West-  
13 ern is making significant inroads competing against wireline service providers -- without  
14 offering LNP." *Id.* Western Wireless went on to state that "there is no evidence to sug-  
15 gest that the inability of CMRS customers to port their numbers is an impediment to  
16 changing service providers." *Id.* at p. 5.

17 **Q7: Do you have any initial comments about Mr. Williams' direct testimony?**

18 **A:** Yes. Mr. Williams' testimony is simply incorrect on several points and, therefore, his  
19 discussion would be misleading if accepted without review:

20 ■ Mr. Williams confuses a waiver request before the FCC pursuant to the FCC's local  
21 number portability ("LNP") rules in contrast to a suspension proceeding before a state  
22 commission pursuant to the broad protections that Congress provided in Section 251(f)(2)  
23 of the Act for small telephone companies and their rural customers.

1 ■ In reviewing what Mr. Williams considers to be the standards for review pursuant to a  
2 Section 251(f)(2) proceeding, Mr. Williams incorrectly references discussion by the FCC  
3 that the Courts have rendered inapplicable. The Courts have concluded that the conclu-  
4 sions contained in Mr. Williams' discussion are contrary to the protections Congress set  
5 forth in the Act.

6 ■ Mr. Williams questions whether there are LNP routing issues, but then presents incon-  
7 sistent testimony that illustrates the same unresolved issues that I set forth in my direct  
8 testimony regarding some new routing arrangement that would have to be established af-  
9 ter a number is ported. The FCC's confusing statements cannot be reconciled with the  
10 facts that I will explain more fully in this Rebuttal Testimony.

11 ■ Mr. Williams discussion of routing issues is, in reality, merely an attempt to impose  
12 extraordinary and unfair transport obligations on the rural LECs far beyond those that ac-  
13 tually apply. The comments of Western Wireless have more to do with burdening the  
14 rural LECs with transport than with any interest in LNP. This may also explain why  
15 Western Wireless is the sole wireless carrier participating in this proceeding.

16 Q8: **Are there any relevant issues that are missing from Mr. Williams Direct Testimony?**

17 A: Yes. Any discussion of the subject of the adverse economic impact on customers (the  
18 first suspension criterion in Section 251(f)(2) of the Act) in South Dakota is glaringly ab-  
19 sent from his testimony. While Mr. Williams discusses the economic burden on the  
20 Petitioners, he fails to address the adverse economic impact on users of telecommunica-  
21 tions services in rural areas of South Dakota. *See* 47 U.S.C. § 251(f)(2)(A)(I) His  
22 testimony completely disregards the significant adverse economic impact on users in jux-  
23 taposition to the absence of demand or any potential benefit of implementation of LNP in

1 rural areas of South Dakota.

2 Q9: **How have you organized the remainder of your Rebuttal Testimony?**

3 A: For ease of review by the Commission and the parties, the remainder of my Rebuttal Tes-  
4 timony will follow, to the extent that is possible, the order of issues presented in Mr.  
5 Williams' testimony.

6 Q10: **Do you have any comments regarding Mr. Williams' discussion at p. 3 of a "juris-**  
7 **diction issue regarding waivers to LNP Implementation?"**

8 A: Mr. Williams' conclusions are incorrect in his response on p. 3 of his Direct Testimony.  
9 First, Mr. Williams discusses waiver requests before the Federal Communications Com-  
10 mission, not suspension requests before a state commission. (He then cites Section 332  
11 of the Act to suggest some authority, but Section 332 provides authority for the FCC to  
12 establish physical, direct connections with local exchange carriers for wireless carriers,  
13 irrelevant to the issues in this proceeding).

14 With respect to a suspension request, there is no question that this Commission  
15 possesses jurisdiction pursuant to Section 251(f)(2) of the Communications Act of 1934,  
16 as amended ("Act"). Section 251(f)(2) relates to requests to state commissions for sus-  
17 pension or modification of requirements in Section 251(b) and (c) of the Act, including  
18 the LNP requirement. Mr. Williams spends several pages, beginning on p. 6, discussing  
19 the criteria in the Act regarding Section 251(f)(2) proceedings.

20 In contrast, the FCC's narrow waiver request rules are intended only to address  
21 situations where there are circumstances beyond the control of a carrier that require some  
22 delay in implementation of LNP. Those set of waiver considerations are completely  
23 separate and unrelated to the considerations set forth in Section 251(f)(2) of the Act.



1 Pursuant to Section 251(f)(2), the Petitioners seek a suspension or modification,  
2 not an FCC waiver, as is clearly their right under this statutory provision, and such re-  
3 quests are clearly a matter to be filed with and resolved by state commissions, not the  
4 FCC. Moreover, the Petitioners have not sought waiver of any Section 251(b)(2) re-  
5 quirement, so the use of this word by Mr. Williams is both incorrect and misleading.

6 Contrary to Mr. Williams' suggestion that the FCC "asserted jurisdiction," there  
7 is no opportunity for the FCC to assert its jurisdiction in a Section 251(f)(2) matter, and  
8 the FCC has previously and specifically recognized state commissions' authority to grant  
9 suspensions from implementation of LNP. In 1997, the FCC specifically cited, in an  
10 LNP order, Section 251(f)(2) and noted that if state commissions exercise their authority  
11 to suspend, "eligible LECs will have sufficient time to obtain any appropriate Section  
12 251(f)(2) relief as provided by the statute." *In the Matter of Telephone Number Portabil-*  
13 *ity, First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236 (1997)  
14 ("Number Portability Reconsideration") at 7302-03. There has been no reversal of this  
15 state commission authority.

16 Q11: On pages 4-5 and 10-11 of his Direct Testimony, Mr. Williams notes LNP suspen-  
17 sion activity in other states. What comment do you have regarding this activity in  
18 other states?

19 A: Based upon information published by Neustar (dated May 20, 2004), there is LNP sus-  
20 pension activity in at least 35 states. The status of that activity in each state is different  
21 and is based on the facts and circumstances of the carriers in those states and the specific  
22 requests of those carriers. In any event, the majority of those states that have pending  
23 suspension requests have granted some relief to the rural LECs seeking suspension.

1 While an exact count is difficult, on May 20, 2004, there appeared to be 28 states in  
2 which requests are still pending or some form of the requests had been granted. Never-  
3 theless, it appears that 18 of the 35 states have granted either a specific suspension or an  
4 interim suspension while the matter is further studied. Far from Mr. Williams attempted  
5 portrayal, the majority of the states have found merit in suspending LNP obligations for  
6 the smaller LECs. And for those states that may have denied the requests, it is not sur-  
7 prising that the state commissions in such states may have been misled by the FCC's less  
8 than adequate handling of its confusing LNP orders or the consequences of the unre-  
9 solved issues.

10 In any event, the activity in other states is based on the specific circumstances of  
11 those states. I would urge the Commission and the parties to focus on the policy, facts,  
12 public interest, and impact on consumers as it relates to LNP suspension in South Dakota.  
13 This Commission is in the best position to review these facts as they relate to the rural  
14 users in South Dakota, and the Commission is in the best position to determine the public  
15 interest with respect to those users.

16 **Q12: On page 4 of his testimony, Mr. Williams notes FCC action regarding North-**  
17 **Eastern Pennsylvania Telephone Company ("NEP"). What relevance does this ac-**  
18 **tion at the FCC have with respect to a state suspension proceeding?**

19 **A:** None. The facts and circumstances of the NEP matter are unrelated to those related to a  
20 suspension request or the issues related to the South Dakota Petitioners. As I already ex-  
21 plained above, an FCC waiver matter is very much different from one that will review the  
22 criteria in the Act under Section 251(f)(2). The NEP matter was a request for temporary  
23 waiver before the FCC; NEP is implementing LNP; NEP needed more time as a result of

1 the failure by its equipment manufacturer to deliver necessary functionalities associated  
2 with new soft switch installations. While the FCC did not grant the waiver request, it  
3 nevertheless gave NEP additional time to get in order the necessary hardware and soft-  
4 ware with its equipment manufacturer. In any event, it was not a suspension request  
5 pursuant to Section 251(f)(2) of the Act.

6 **Q13: On page 10 of his direct testimony, Mr. Williams notes a statement by the Pennsyl-**  
7 **vania Commission. Do you have any comment?**

8 **A:** Yes. What Mr. Williams fails to point out is that the Pennsylvania Commission, in the  
9 proceedings cited by Mr. Williams, granted suspension of certain Section 251(b) and (c)  
10 interconnection requirements for a large number of small LECs in Pennsylvania contrary  
11 to that which is implied by the testimony of Mr. Williams.

12 **Q14: What is your reaction to Mr. Williams' statement at p. 5 that "all LECs have known**  
13 **since 1996 that they would be required to provide LNP"?**

14 **A:** Even if this observation were true, it is not relevant to these proceedings because Section  
15 251(f)(2) of the Act gives the Petitioners the right to file suspension petitions and it im-  
16 poses no time constraints on when such suspension petitions must be filed. In any event,  
17 I disagree with the implication. Although the Act contains an LNP provision, there was  
18 no LNP requirement until the FCC developed implementation rules (notwithstanding the  
19 fact that these rules are still incomplete). Further, for carriers outside of the top 100  
20 MSAs, such as the Petitioners, there was no LNP requirement until the Petitioners re-  
21 ceived a specific request for LNP. Thus, Petitioners could not know that they might be  
22 required to implement LNP until they were asked to do so.

23 Even once various wireless carriers like Western Wireless requested LNP, it was

1 not at all clear that the requests complied with the FCC's rules. In fact, it took the FCC  
2 eleven months to "clarify" the meaning of its rules after the wireless carriers admitted un-  
3 certainty. It is difficult to understand how Western Wireless can argue that the  
4 Petitioners should have known in 1996 that they had an obligation to port numbers to  
5 wireless carriers when no wireless carrier had made a request for number portability until  
6 2003 and the FCC needed eleven months to "clarify" the obligation that Western Wire-  
7 less contends is so apparent.

8 Moreover, a factual review of the record before the FCC demonstrates that no one  
9 could have anticipated the FCC would reach the novel conclusions reflected in the *Nov.*  
10 *10 Order*. Many very difficult issues associated with intermodal porting have been iden-  
11 tified and studied by both the FCC and the industry working group selected by the FCC  
12 and, even currently, there has been no proposal or recommendation to resolve these in-  
13 termodal porting issues. Consequently, there could not have been any reasonable  
14 expectation that the FCC would disregard the record and its own announced process and  
15 order intermodal LNP as described in the *Nov. 10 Order*.

16 I will address additional aspects of the *Nov. 10 Order* later in this Rebuttal Testi-  
17 mony and explain why the Order represents a significant departure from the FCC's  
18 previously announced approach to the establishment of new requirements and how some  
19 of the FCC's statements make no sense when compared with the facts. I devote several  
20 pages of my Direct Testimony to the background of the sequence of events and/or lack of  
21 action that led to the *Nov. 10 Order* and explain why no one could have anticipated the  
22 FCC's action. Watkins Direct at pp. 15-35.

23 Q15: **On pp. 6-7 of his Direct Testimony, Mr. Williams sets forth his view of the standards**

1 Congress intended for a Section 251(f)(2) proceeding and sets forth the FCC's de-  
2 scription of the meaning of "undue economic burden." Are his views correct?

3 A: No. Mr. Williams has misstated applicable law. The FCC attempted to invoke an im-  
4 proper interpretation of what is meant by "undue economic burden," and the Courts have  
5 subsequently vacated the applicable FCC Rule relating to this subject.

6 Mr. Williams at p. 7, lines 1-3 and line 12-19, cites the FCC discussion in its *First*  
7 *Report and Order* of the narrow criteria that the FCC sought to apply with respect to the  
8 evaluation of Section 251(f)(1) exemptions and Section 251(f)(2) suspension and modifi-  
9 cation requests and the FCC's attempt to confine the definition of undue economic  
10 burdens. As the Courts have concluded, the FCC attempted improperly to narrow the ex-  
11 emption, suspension, and modification provisions of Section 251(f) of the Act by  
12 adopting Section 51.405 of its Rules. The FCC's conclusions and Section 51.405 of its  
13 rules were subsequently vacated. The statements of the FCC cited by Mr. Williams are in  
14 the section of the *First Report and Order* that has been completely invalidated by the  
15 Courts.

16 On July 18, 2000, on remand from the United States Supreme Court, the United  
17 States Court of Appeals for the Eighth Circuit issued its opinion in *Iowa Utilities Board*  
18 *v. Federal Communications Commission*, 219 F.3d 744(8<sup>th</sup> Cir. 2000) ("*IUB II*"), which,  
19 *inter alia*, vacated Section 51.405(a), (c) and (d) of the FCC's rules.

20 *IUB II* establishes that the proper standard for determining whether compliance  
21 with Section 251(b) or (c) would result in imposing a requirement that is unduly eco-  
22 nomically burdensome includes "the full economic burden on the ILEC of meeting the  
23 request that must be assessed by the state commission" and not just that which is "beyond

1 the economic burden that is typically associated with efficient competitive entry." 219

2 F.3d at 761 The Court emphasized that "undue economic burden" is just one of three al-

3 ternative bases on which suspension or modification may be granted under § 251(f)(2) --

4 the others being adverse economic impact on users and technical infeasibility.

5 **Q16: How does this Eighth Circuit Court of Appeals decision support the Petitioners' po-**  
6 **sitions with respect to their request for suspension of LNP?**

7 **A:** According to the Court, the FCC attempted unlawfully to limit the interpretation of "un-  
8 duly economically burdensome," and, therefore, the FCC had "impermissibly weakened  
9 the broad protection Congress granted to small and rural telephone companies." 219 F.3d  
10 at 761. In no uncertain terms, the Court concluded that the FCC's interpretation (as re-  
11 flected in the references Mr. Williams has provided) frustrated the policy underlying the  
12 statute and stated "[t]here can be no doubt that it is an economic burden on an ILEC to  
13 provide what Congress has directed it to provide to new competitors in § 251(b) or §  
14 251(c)." *Id.*

15 **Q17: Mr. Williams, at pp. 12-15 of his Direct Testimony, questions the infeasible opera-**  
16 **tional and technical implementation obstacles that would be encountered by the**  
17 **Petitioners. Do you have any comment?**

18 **A:** Yes. I will let the factual record speak for itself because it fully demonstrates the obsta-  
19 cles confronting carriers regarding potential routing of calls to ported numbers where  
20 there is no interconnection or other business arrangement in place.

21 **Q18: On page 14, the testimony of Mr. Williams may suggest that you are confused about**  
22 **the differences between Service Provider Portability and Location Portability, and**  
23 **what the FCC has ordered. Are you confused?**

1 A: No. Although additional issues remain before the FCC and before the Courts regarding  
2 the arbitrary aspects of the FCC's orders related to the FCC's own definition of Service  
3 Provider Portability compared to Location Portability, my testimony has emphasized the  
4 unresolved issues and inconsistencies in the FCC's order related solely to Service Pro-  
5 vider Portability. Even Mr. Williams's words (on p. 14), about what Service Provider  
6 Portability means, further illustrates my point. Mr. Williams concedes that the statutory  
7 and FCC rule definition of Service Provider Portability is the substitution of service using  
8 the same number "at the same location where the customer receives landline service."  
9 Without debating the fact that a number ported to a mobile user of wireless service auto-  
10 matically means that the customer will most certainly not use the same number for  
11 service "at the same location where the customer receives landline service," the "at the  
12 same location" statutory and rule criterion is rendered unreasonably meaningless where  
13 the wireless carrier neither has a presence, nor an interconnection arrangement over  
14 which calls can be routed, in the rate center area that constitutes "at the same location."  
15 My testimony centers on the "at the same location" issue within the original rate center  
16 area. There are many additional issues, beyond this proceeding and the scope of my tes-  
17 timony, regarding what meaning to apply with respect to Location Portability.

18 Q19: **Mr. Williams questions whether there are really routing issue problems. Did the**  
19 **industry workgroup ever discuss problems associated with routing issues?**

20 A: Yes, the industry workgroup acknowledged and listed the same problems that the FCC  
21 has failed to recognize and address in the *Nov. 10 Order*. See also Watkins Direct at p.  
22 15-21.

23 A thorough review of the workgroup reports reveals very interesting observations

1 and conclusions consistent with my Direct Testimony about the fact that intermodal port-  
2 ing would not be feasible if there are no business and network interconnection  
3 arrangements in place with the relevant wireless carrier in the local area that constitutes  
4 “at the same location.” I want to emphasize that the “at the same location” criterion is  
5 part of the statutory requirement and the FCC’s own definition of Service Provider Port-  
6 ability that forms the LNP requirement.

7 In a Report from the North American Number Council (“NANC”) submitted by  
8 its Chairman to the FCC on May 18, 1998 (“1998 NANC Report”), the group reported  
9 and explained unresolved intermodal LNP issues (Section 3 on page 6):<sup>1</sup>

10 SECTION 3 WIRELESS WIRELINE INTEGRATION ISSUES

11 3.1 Rate Center Issue

12 3.1.1 Issue: Differences exist between the local serving areas of  
13 wireless and wireline carriers. These differences impact Service Provider  
14 Portability with respect to porting both to and from the wireline and wire-  
15 less service providers. . . .

16 The 1998 Report concludes (on p. 7) that consensus could not be reached on a so-  
17 lution to the Rate Center Issue. (And subsequent reports in 1999 and 2000 have  
18 concluded the issue is still open.)

19 This 1998 Report also includes, as an Appendix D, a Background Paper that dis-  
20 cusses some of the same issues related to the rate center disparity issue between wireless  
21

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<sup>1</sup> See letter from Alan C Hasselwander, Chair, North American Numbering Council, dated May 18, 1998, to Mr. A. Richard Metzger, Jr., Chief, Common Carrier Bureau, Federal Communications Commission. The various reports and white papers are attached to Mr. Hasselwander’s May 18 letter. All of the NANC reports to be referenced in this rebuttal testimony can be found on the FCC’s website by going to “Search” and then to “Search for Filed Comments.” These NANC reports are attached to the Petition for Declaratory Ruling filed by CTIA on January 23, 2003 in CC Docket No. 95-116 addressing LNP. By entering the docket number



1 and wireline operations. As I concluded in my Direct Testimony, there are technical  
2 infeasibility implications for intermodal porting where there is no presence by the wire-  
3 less

1 carrier in the area that constitutes “at the same location” because there is no network or  
2 business arrangement in place for the routing of calls. Most notably, as far back as 1998,  
3 the NANC realized these same issues and obstacles and reported them to the FCC:

### 4 3.0 Limitations on the Scope of Service Provider Portability

5  
6 Due to the need to ensure proper rating and routing of calls, the NANC  
7 LNPA Architecture Task Force agreed that service provider portability was lim-  
8 ited to moves within an ILEC rate center. Section 7.3 of the NANC LNP  
9 Architecture & Administrative Plan report which has been adopted by the FCC,  
10 states, “portability is technically limited to rate center/rate district boundaries of  
11 the incumbent LEC . . . .

12  
13 1998 NANC Report, Appendix D - Rate Center Issue, Section 3.0, Limitations on the  
14 Scope of Service Provider Portability at p. 34, underlining added.

15 At p. 35 of the Appendix D Background Paper, the report notes four possible sce-  
16 narios -- two for wireline-to-wireless porting and two for wireless-to-wireline porting.  
17 For the first two wireline-to-wireless porting scenarios, the Background Information pa-  
18 per concludes in both cases that:

19 Porting would be permissible as long as the wireless service provider has  
20 established an interconnect agreement for calls to the wireless telephone number

21 . . . .

22 [Underlining added]

23 The Background Paper goes on to explain that some of the scenarios described for wire-  
24 less-to-wireline porting would not be permissible, and this accounts for the competitive  
25 disparity that the FCC’s *Nov. 10 Order* has allowed.

26 Finally, the Background Paper at p. 35 summarizes exactly the same kind of tech-  
27 nical infeasibility issues related to routing that I set forth in my Direct Testimony, namely  
28 that LNP is only possible where there is a business and network interconnection ar-  
29 rangement in place with the relevant wireless carrier within the relevant rate center area:

1 The above examples provide only a small sample of potential porting scenarios.  
2 If all of the potential scenarios were examined, the following patterns would  
3 emerge:  
4

5 Porting from a wireline service provider to a wireless service provider  
6 ["WSP"] is permitted as long as the subscriber's initial rate center is within the  
7 WSP service area and the WSP has established interconnection/business arrange-  
8 ments for calls to wireless numbers in that rate center . . . .  
9

10 Porting from a wireless service provider to a wireline service provider is  
11 *only* allowed when the subscriber's physical location is within the wireline rate  
12 center associated with the wireless NPA-NXX.  
13 [Underlining added]

14 The latter statement above is the realization that porting in the wireless-to-  
15 wireline direction is limited by the rate center disparity issue and this limitation leads to  
16 disparity in competitive opportunities. The former underlined statement above that inter-  
17 connection and business arrangements are prerequisites to permit porting is a conclusion  
18 that the FCC refuses to acknowledge, yet is a fact. In subsequent reports, NANC repeat-  
19 edly stated that there had been no consensus on rate center disparity issues and no  
20 recommendation on a technical or competitively fair approach to remedy the reported ob-  
21 stacles. In the last report that I can identify, the NANC lists the Rate Center Issue as an  
22 "Open Issue" and states that the reader should review the 1998 and 1999 reports for de-  
23 tails about the issue (the same discussion from the 1998 report that I have set forth above)  
24 and that "[n]o resolution of this issue has occurred."

25 Q20: Are these conclusions by the FCC's expert industry work group consistent with  
26 your testimony?

27 A: Yes. Where there is no interconnection/business arrangement with a wireless carrier to  
28 which a number may be ported, the Petitioners have no established network or business  
29 arrangement to route calls; therefore, porting is not "permitted" as the work group prop-

1 erly concluded. Furthermore, the Petitioners have no statutory right or other ability to  
2 force wireless carriers to enter into proper “interconnection/business arrangements.” Ac-  
3 cordingly, contrary to Mr. Williams’ claims, the technical obstacles that I have outlined  
4 in the testimony are real.

5 A wireline LEC that may originate a call to a number of another carrier cannot  
6 unilaterally provision a calling service where there is no interconnection/business ar-  
7 rangement with the other carrier. Just as the introduction of an Extended Area Service  
8 (“EAS”) route between two incumbent LECs involves the establishment of interconnec-  
9 tion facilities and business arrangements between the two carriers, the ability of a LEC to  
10 exchange local exchange service calls with a wireless carrier also necessitates intercon-  
11 nection and the establishment of the necessary terms and conditions under which the  
12 traffic will be exchanged. Interconnection occurs as the result of a request by a carrier  
13 other than an incumbent LEC and is dependent on the mutual development of terms and  
14 conditions between the carriers for such interconnection. These obvious conclusions are  
15 embodied in the conclusion of the NANC work group.

16 **Q21: Mr. Williams at p. 20 and his Exhibit 6 diagrams claim that the Petitioners should**  
17 **provision network and/or create new arrangements for the delivery of local calls to**  
18 **some interconnection point beyond the Petitioners’ networks. Do the local competi-**  
19 **tion interconnection rules, or any other regulation, require the Petitioners to**  
20 **provision local services to distant points beyond their own networks?**

21 **A:** No. Mr. Williams’ statements are misleading and contrary to the interconnection re-  
22 quirements in the Act. Further, as admitted by Western Wireless in response to  
23 Interrogatory 7.b., attached hereto as Exhibit 1, Mr. Williams’ statements are contrary to

1 the interconnection agreements recently negotiated between Western Wireless and Peti-  
2 tioners.

3 For several reasons, the Petitioners are not required to provision services beyond  
4 their own networks, to purchase services from other carriers, or to deliver local exchange  
5 carrier service calls to points of interconnection beyond the Petitioners' own networks:

6 ■ The interconnection obligations established under the Act apply with respect to the  
7 service area of the incumbent LEC, not the service area of some other LEC:

8 For purposes of this section, the term 'incumbent local exchange carrier'  
9 means, with respect to an area, the local exchange carrier that (A) on the date of  
10 enactment of the Telecommunications Act of 1996, provided telephone exchange  
11 service in such area . . . .

12 47 U.S.C. § 251(h), (underlining added)

13 ■ It has long been established that the Act does not require an incumbent LEC to provi-  
14 sion, at the request of another carrier, some form of interconnection arrangement that is  
15 superior or extraordinary to that which the LEC provisions for itself. The LEC's obliga-  
16 tions are only to provide interconnection arrangements that are at least equal to those that  
17 the LEC provides for itself and its own service, not superior. However, the suggestion by  
18 Mr. Williams that a Petitioner could be required to provision local exchange carrier ser-  
19 vices with transport to some distant point, or to purchase services from some other carrier  
20 for transport of traffic beyond the Petitioner's network (*e.g.*, from Qwest to transport traf-  
21 fic to the Qwest tandem), would represent just such extraordinary arrangement not  
22 required of the Petitioners. While an incumbent LEC may, at the incumbent LEC's sole  
23 discretion, voluntarily agree to extraordinary arrangements, the LEC would not do so

1 unless the carrier requesting such extraordinary arrangement is prepared to compensate  
2 the incumbent LEC or be responsible for the extraordinary costs for any such superior ar-  
3 rangement.

4 In the same *IUB II* cited above, the Eighth Circuit Court of Appeals reaffirmed its  
5 earlier conclusion, not affected by the Supreme Court's remand, that the FCC had unlaw-  
6 fully adopted and attempted to impose interconnection requirements on incumbent LECs  
7 that would have resulted in superior arrangements to that which the incumbent LEC pro-  
8 vides for itself. It is now well established that an incumbent LEC is not required to  
9 provision some superior form of interconnection service arrangement at the request of  
10 another carrier, but that is Mr. Williams' suggestion. The Court concluded that "the su-  
11 perior quality rules violate the plain language of the Act." The Court concluded that the  
12 standard of "at least equal in quality" does not mean "superior quality" and "[n]othing in  
13 the statute requires the ILECs to provide superior quality interconnection to its competi-  
14 tors." 219 F.3d at 757-758.

15 It is noteworthy here also to point out that under the invalidated superior quality  
16 rule that the FCC had originally adopted, even the FCC in imposing the unlawful re-  
17 quirement to provide some superior form of interconnection had nevertheless also  
18 concluded that the LEC should be paid for the extraordinary costs associated with the su-  
19 perior interconnection arrangement. Pursuant to Mr. Williams' suggestion, not only  
20 would Western Wireless require a superior quality interconnection from the Petitioners,  
21 he would also do so without compensation for the extraordinary costs.

22 ■ The FCC's own interconnection rules addressing the exchange of traffic subject to the  
23 so-called reciprocal compensation requirements envision only that traffic exchange take

1 place at an “interconnection point” on the network of the incumbent LEC, not at an inter-  
2 connection point on some other carrier’s network. “Incumbent LECs are required to  
3 provide interconnection to CMRS providers who request it for the transmission and rout-  
4 ing of telephone exchange service or exchange access, under the plain language of  
5 section 251(c)(2).” (underlining added) In the Matter of Implementation of the Local  
6 Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*,  
7 11 FCC Rcd. 15499 at para. 1015. *See also, Id.* at paras. 181-185. Moreover, Sections  
8 251(c)(2)(A)-(C) of the Act states:

9 (2) Interconnection.-- The duty to provide, for the facilities and equipment  
10 of any requesting telecommunications carrier, interconnection with the local ex-  
11 change carrier’s network-- (A) for the transmission and routing of telephone  
12 exchange service and exchange access; (B) at any technically feasible point  
13 within the carrier’s network; (C) that is at least equal in quality to that provided  
14 by the local exchange carrier to itself or to any subsidiary, affiliate, or any other  
15 party to which the carrier provides interconnection . . . (underlining added)

16 Therefore, it is Western Wireless’s obligation to provision its own network or ar-  
17 range for the use of some other carrier’s facilities outside of the incumbent LEC’s  
18 network as the means to establish that “interconnection point” on the network of the in-  
19 cumbent LEC.

20 ■ LECs such as the Petitioners generally do not offer or provide any local exchange call-  
21 ing service to their own customers that would involve transport to distant locations as  
22 suggested by Mr. Williams. Calls which involve transport to distant locations beyond the  
23 networks of the Petitioners are provided by interexchange carriers (“IXCs”), and these

1 calling services are not local exchange carrier services. The Act does not require the Pe-  
2 titioners to begin to offer some new and extraordinary form of local calling to their own  
3 customers. The involvement of the Petitioners in such calls is simply the provision of ac-  
4 cess services to IXC's that are the service providers to the end users.

5 Accordingly, there can be no expectation that Petitioners must transport local ex-  
6 change service traffic to some distant point when the Petitioners have no statutory or  
7 regulatory interconnection obligation to do so. Whether Mr. Williams' suggestion to the  
8 contrary (or the presumption embodied in the FCC's confusing statements in its recent  
9 orders) equates to a request that is infeasible because it is premised on the fulfillment of  
10 a network arrangement that does not exist and for which there is no legal requirement, or  
11 a request that imposes undue economic burden on the Petitioners because it would re-  
12 quire some extraordinary superior arrangement, it does not really matter because either  
13 potential outcome is sufficient to warrant suspension under Section 251(f)(2)(A) of the  
14 Act. Either condition is sufficient, on its own, under Section 251(f)(2).

15 **Q22: At page 20 of his Direct Testimony, Mr. Williams questions whether LNP costs**  
16 **would impose an undue economic burden on the Petitioners. What response do you**  
17 **have to his comments?**

18 **A:** With respect to the economic burden on the Petitioners, while some costs associated with  
19 LNP implementation may be recovered through a surcharge imposed on their own cus-  
20 tomers, there will be other costs incurred by the Petitioners beyond those costs that  
21 qualify for the surcharge treatment. And, if an improper form of LNP were imposed on  
22 the Petitioners, one that would impose some extraordinary form of interconnection with a  
23 requirement to incur transport costs to some distant point, there would be additional costs



1 associated with an attempt to comply with the directives and the provisioning of the ex-  
2 traordinary network and other business arrangements. The potential costs to transport  
3 traffic to some distant point are potentially unbounded.

4 Mr. Williams fails to acknowledge the significant adverse economic impact any  
5 of this would impose on the rural subscribers in South Dakota.

6 **Q23: On p. 22 of his Direct Testimony, Mr. Williams notes routing issues, potentially**  
7 **similar to those that you have discussed above, associated with a Notice of Apparent**  
8 **Liability (“NAL”) issued by the Enforcement Bureau of the FCC against Century-**  
9 **Tel of Washington. What is your response?**

10 **A:** I note that the NAL is not a final decision. Further, although all of the facts are not clear  
11 from the NAL, it is clear that CenturyTel had not received a suspension or interim sus-  
12 pension of the LNP requirement from the state commission. For these reasons, it is not  
13 clear to what extent, if any, this case may apply to other LECs, like the Petitioners.  
14 What is clear, however, is that the proper routing of calls, including in the LNP environ-  
15 ment, requires the carriers involved to establish interconnection and business  
16 relationships.

17 As I explained above, the Petitioners have no obligation to provision interconnec-  
18 tion to distant points beyond that at which the Petitioners provision any other local  
19 exchange service calls; the Petitioners have no obligation to put in place some superior  
20 form of interconnection service for the benefit of some other carrier that has not re-  
21 quested interconnection; and the Petitioners, in any event, cannot resolve these routing  
22 issues unilaterally because the Act states that interconnection terms and conditions are es-  
23 tablished by a carrier’s request to an incumbent.

1 Q24: On pp. 22-23, Mr. Williams states that if Petitioners do not implement LNP it will  
2 limit wireless to wireless LNP because wireless carriers use numbers assigned by  
3 LECs. How do you respond?

4 A: Mr. Williams admits in his answer to Interrogatory 19. that Western Wireless is not re-  
5 quired to use numbers assigned by LECs and that it can obtain its own numbers and not  
6 use those assigned by LECs.

7 Q25: On pp. 23-24 Mr. Williams notes that the FCC's Consumer and Governmental Af-  
8 fairs Bureau submitted a letter to NARUC addressing issues associated with  
9 requests for suspension before State commissions. Do you have any comment?

10 A: Yes. A thorough review of the Snowden letter finds that the actual substance is suppor-  
11 tive of the grant of the Petitioners' suspension requests. The letter simply asks the  
12 President of NARUC to remind state commissions to apply the "appropriate standard of  
13 review" to requests under Section 251(f) of the Act. The Petitioners have already dem-  
14 onstrated that grant of their requests is fully consistent with those standards, even beyond  
15 the standards required by the Act and beyond that which the Eighth Circuit Court of Ap-  
16 peals has confirmed and clarified.

17 The Snowden letter limits its suggestions regarding proper review to include only  
18 the "undue economic burden and technical infeasibility" criteria. Just as Mr. Williams  
19 has neglected to address the adverse impact on customers that LNP implementation  
20 would impose, Mr. Snowden also omits these considerations.

21 Q26: On page 24, Mr. Williams suggests that there are likely to be greater numbers of  
22 customers switching to wireless service. Do you have any comment about his state-  
23 ments?

1 A: Yes. First, Mr. Williams references Mr. Thierer's speculative CATO report that was pre-  
2 pared even before implementation of intermodal LNP in the top 100 MSAs had begun.  
3 The evidence that is available since November 24, 2003 indicates that the degree of in-  
4 termodal porting from wireline to wireless, in the more urban areas, is small and less than  
5 expected. And any expected interest in rural areas, such as those served by the Petition-  
6 ers, will even be less than the already nascent level of intermodal porting in urban areas.  
7 See Watkins Direct at pp. 10-15. In a May 21, 2004 News Release, the FCC reports that  
8 since November 2003, "[o]ver 3.5 million numbers have been switched. . . . Approxi-  
9 mately 229,000 involved landline customers taking their landline number to a wireless  
10 carrier." The latter statistic represents the initial six months of intermodal LNP experi-  
11 ence in the Nation's top 100 MSAs. Clearly, the national demand for intermodal LNP in  
12 metropolitan areas has been modest.

13 Q27: **Mr. Williams complains at pp. 24-25 that Western Wireless has had to spend re-**  
14 **sources for LNP. Is this relevant?**

15 A: No. The fact that the FCC mandated that LNP be implemented by CMRS carriers is not  
16 at issue in these proceedings. Congress explicitly established the opportunity for a rural  
17 telephone company to obtain a suspension or modification in Section 251(f)(2) under the  
18 broad protections Congress intended for rural customers and carriers. Nothing in these  
19 requirements includes consideration of actions of other carriers, either voluntarily or in-  
20 voluntarily.

21 Q28: **Mr. Williams complains at p. 25 that it would be "unfair" if the Petitioners are not**  
22 **required to implement LNP because it would limit Western Wireless opportunity to**  
23 **recoup its LNP costs by porting numbers from the Petitioners. How do you re-**

1        **spond?**

2        A:     Mr. Williams statement is not compelling given that LNP in the wireless-to-wireline di-  
3               rection is only required, pursuant to the *Nov. 10 Order*, in the very limited circumstance  
4               where the wireless number resides in the correct LEC rate center. The current circum-  
5               stances are more competitively fair than the disparate version of LNP that would result  
6               under the FCC's approach given the unresolved rate center disparity issues that I have  
7               discussed in my response to Question 19. At least, Western Wireless has some opportu-  
8               nity to port numbers from other wireless providers, whereas most of the Petitioners would  
9               have little or no opportunity to recoup their costs by porting-in numbers. Requiring the  
10              Petitioners to implement LNP would be even more "unfair" than the situation about  
11              which Western Wireless complains.

12      Q29:   **What relevance does Mr. Williams' quote on p. 26 regarding rate centers and rout-**  
13               **ing and rating of calls have here?**

14      A:     None. Mr. Williams apparently believes that the quoted FCC statement at p. 26, lines 13-  
15               16 of his Direct Testimony has a meaning different than the facts would indicate. First,  
16               the rate center associated with a telephone number does not necessarily determine the  
17               service treatment of calls. Second, even if a LEC wanted to use rate center areas as the  
18               means to define local exchange carrier services, as I have already explained above, the  
19               LEC cannot and would not treat calls to a wireless user as a local exchange service call if  
20               the LEC has no interconnection or business arrangement in place with the wireless carrier  
21               because the LEC would have had no requirement to have network trunks in place or es-  
22               tablished terms with other carriers to route such calls. Calls to users of wireless carriers  
23               where there is no established network interconnection or business arrangements in place

1 are necessarily handed off to IXC's who complete such calls to a distant point. Therefore,  
2 "rated in the same fashion" simply means that the calls to the ported number are treated  
3 as IXC calls as any other call is treated for which there is no interconnection or business  
4 arrangement in place with the wireless carrier that would allow for the routing of a call by  
5 the LEC to the wireless carrier as a local call.

6 **Q30: What concluding comments would you offer to the Commission with regard to the**  
7 **pending Requests?**

8 **A:** For all of the reasons set forth in my Direct Testimony and herein, I respectfully urge the  
9 Commission to grant the suspension requests of the Petitioners. Their requests satisfy the  
10 criteria set forth in Section 251(f)(2) of the Act and are consistent with the preservation  
11 of the public interest:

12 ■ The costs to implement LNP, wireline-wireline and wireline-wireless, would impose  
13 significant adverse economic impacts on the users of telecommunications in rural areas of  
14 South Dakota served by Petitioners.

15 ■ The FCC's *Nov. 10 Order* as well as subsequent orders and statements regarding in-  
16 termodal LNP create more problems than solutions. Intermodal LNP would impose on  
17 the Petitioners either undue economic burdens, requirements that are not technically fea-  
18 sible, or both.

19 ■ Suspension of the implementation of LNP for these Petitioners is consistent with the  
20 public interest, convenience and necessity in that the costs of LNP implementation to  
21 both telecommunications users and the Petitioners are significant and the benefits are  
22 slight as evidenced by the lack of demand for LNP among consumers in the areas served  
23 by the Petitioners in rural South Dakota.

1 Q31: What is the scope of the modification or suspension that the Petitioners seek from  
2 this Commission pursuant to Section 251(f)(2)?

3 A: Specifically, the current suspension of the FCC's LNP requirements should be extended  
4 until conditions may have changed (*i.e.*, a change in the cost related to demand) relevant  
5 to the public interest considerations that form the basis here for the Petitioners' suspen-  
6 sions. This would include suspension until the FCC and the Courts make a full and final  
7 disposition of the outstanding issues, including the porting interval and wireless to wire-  
8 line LNP requirements. Further, the Commission should confirm that the Petitioners  
9 have no obligation to transport calls beyond their service areas for purpose of LNP or any  
10 other purpose. Finally, when the issues are resolved and the public interest circumstances  
11 may have changed, the Petitioners would need sufficient time to acquire and install the  
12 necessary hardware and software and to put in place the necessary administrative proc-  
13 esses.

14 Q32: Does this conclude your Rebuttal Testimony?

15 A: Yes.

## **EXHIBIT 1**

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-025; TC04-038; TC04-044  
through TC04-056; TC04-060 through TC04-  
062; TC04-077; TC04-084; and TC04-085

**WWC'S RESPONSES TO  
SUPPLEMENTAL DISCOVERY  
REQUESTS OF PETITIONERS**

WWC License LLC, by and through its undersigned attorney, Talbot J. Wieczorek, of  
Gunderson, Palmer, Goodsell & Nelson, LLP, Rapid City, South Dakota, hereby responds to the  
Supplemental Discovery Requests of the Petitioners in the following dockets:

TC-04-025	Kennebec Telephone Co.
TC04-038	Santel Communications
TC04-044	Sioux Valley Telephone Co.
TC04-045	Golden West, Vivian Telephone Co and Kadoka Tele Co
TC04-046	Armour, Bridgewater-Canistota Tele Co and Union Tele Co
TC04-047	Brookings Municipal Utilities d/b/a Swiftel Communications
TC04-048	Beresford Municipal Telephone Company
TC04-049	McCook Cooperative Telephone Company
TC04-050	Valley Telecommunications Cooperative Association, Inc.
TC04-051	City of Faith Telephone Company
TC04-052	Midstate Communications, Inc.
TC04-053	Western Telephone Company
TC04-054	Interstate Telecommunications Cooperative, Inc.
TC04-055	Alliance Communications Inc. and Splitrock Properties
TC04-056	RC Communications, Inc., and Roberts County Telephone Cooperative Assn.
TC04-060	Venture Communications Cooperative
TC04-061	West River Cooperative Telephone Company
TC04-062	Stockholm-Strandburg Telephone Company
TC04-077	James Valley Cooperative Telephone Company
TC04-084	Tri-County Telecom
TC04-085	Cheyenne Sioux Tribe Telephone Authority



## II. DISCOVERY REQUESTS

### A. INTERROGATORIES

1. At page 10, lines 6-14 of Mr. Williams' testimony, he states that similarly situated LECs are not seeking a delay or suspension of LNP implementation. Identify the similarly situated LECs to which you refer and explain with specificity how they are similar to Petitioners, including information on their respective switch upgrade costs, number of lines in service and type of interconnection with wireless carriers.

**ANSWER:** See Exhibit A for the list of similarly situated LECs that have implemented LNP. Further, numerous LECs throughout the country have not requested waivers of their obligation of porting numbers by May 24, 2004. In fact, some LECs in South Dakota did not apply for a waiver or extension and it was represented by Attorney Rogers that these LECs, planned on providing portability by the deadline and, therefore, were not filing for waivers or extensions. Western Wireless Corporation does not have access to specific switch upgrade costs for LEC's in our service area.

2. At page 10, lines 16-20, and page 11, lines 1-15, you identify other state commissions that have ruled on LEC LNP suspension requests. Identify any other state commissions that have ruled on temporary or permanent LNP suspension requests of which you are aware and indicate how they have ruled.

**ANSWER:** A comprehensive list of regulatory filings and decisions related to Local Number Portability can be found at [www.NECA.org](http://www.NECA.org).

3. At page 12, lines 23-26 and page 13, lines 1-7, you state that "Petitioners have identified only a few technical or feasibility issue in the implementation of local number portability" and list three issues. Identify where each Petitioner identified the alleged issues in its Petition, testimony and discovery responses by page number and where applicable, by line number or question number.

As way of clarification, it does not appear any of the companies claim that LNP would be a requirement that is “technically infeasible” under 47 U.S.C. § 251(f)(2)(A)(iii). However, in response to interrogatory 27 of Western Wireless’ First Set of Interrogatories to the Petitioners, Petitioners either answered that there was no technical infeasibility but that implementing the portability under certain circumstances could be difficult based on the lack of rule makings or be difficult to do so using a local seven digit dialed basis. There exists testimony that has been prefiled by various Petitioners also reiterating these positions. To the extent that this interrogatory requests that every instance of every reference that any of the Petitioners’ 22 witnesses may have made to these three areas must be set forth, the interrogatory is objected to as overly broad and unduly burdensome especially in that it seeks summaries of Petitioners’ own testimony.

4. At page 14, lines 17-22, you state that “the LEC will need to route a call to a ported number to the serving tandem.”
  - a. Identify the serving tandem to which you refer.
  - b. Identify any requirement that LECs must route calls to a ported number to the serving tandem. If you are not aware of any such requirement, indicate so.
  - c. Indicate whether you contend that if the LECs route a call to a number ported to Western Wireless to the serving tandem they would also need to route calls to Western Wireless numbers that are not ported numbers to the serving tandem.

**ANSWER:**

- 4.a) The Qwest LATA or local tandem to which the trunk group that delivers wireless terminating traffic is connected.
- 4.b) Pursuant to federal law and regulation, it is the LEC’s requirement to appropriately route the traffic for ported numbers. There is no specific requirement to route to a serving tandem. This is just one of several methods a carrier can use to deliver local traffic to a ported number. Typically, for low traffic volumes, tandem routing, using common or shared trunk groups, is the most cost efficient means of routing such traffic. It appears that Petitioners used the most costly way to route traffic as the basis for their cost analysis rather than considering other ways of routing.
- 4.c) Objection: How calls need to be routed for Western Wireless numbers separate and a part from LNP issues is not relevant in any of these filings and is not likely to lead to the discovery of admissible evidence.

5. At page 15, footnote 23, you state that the Central Office Code Administration Guidelines published by the Alliance for Telecommunications Industry Solutions “permit a carrier to receive a rate center number assignment and designate a routing point for calls to those numbers that is outside the rate center to which they are assigned.” Do you contend that this requires Petitioners to route calls to a ported number to the serving tandem?

**ANSWER: This reference was provided to indicate that tandem routing practices for local calling are not new to the industry. See also response to Question 4.a.**

6. At page 15, line 6, you state that “[t]his practice is permitted under industry guidelines...”  
To what practice are you referring?

**ANSWER: The practice of identifying separate rating and routing points for NPA-NXXs and properly rating and routing traffic based on those designations.**

7. At page 3, lines 3-7, you state that you have been “actively involved in negotiation of interconnection agreements with most, if not all, of the Petitioners in this case on behalf of Western Wireless” in response to a question as to whether you have any background or familiarity with Western Wireless’ system in South Dakota and any familiarity with the Petitioners’ systems in South Dakota.
- a. Based on your familiarity with the Petitioners’ systems obtained through the interconnection agreement process, do any of the Petitioners route traffic to Western Wireless customers to the serving tandem identified in 4a?
  - b. Does Western Wireless contend that the Petitioners agreed in the interconnection agreements to route traffic to Western Wireless to the serving tandem?
  - c. Does Western Wireless contend that the FCC’s local number portability rules would require parties to an interconnection agreement to route traffic in a manner different from that to which they agreed?

**ANSWER:**

**7.a) Not at this time. Petitioners can, at any time, begin to route traffic to Western Wireless customers to the serving tandem.**

**7.b) No.**

**7.c) No, but nothing prevents Petitioners from amending, by mutual agreement, the interconnection agreements with Western Wireless.**

8. At page 16, lines 9-11, you state that “[t]he facts contained in the Petitions do not meet the standard that would lead one to conclude the economic burden exceeds that ‘typically associated with efficient competitive entry.’” Identify the facts that would meet the standard that would lead one to conclude the economic burden exceeds that typically associated with efficient competitive entry.”

**ANSWER: One method to establish this burden might include demonstration of costs that are extraordinary in comparison to other similarly situated companies that have implemented LNP. Another method may be to demonstrate that a Petitioners financial wherewithal is insufficient to sustain implementation of LNP. Adoption of any new service to the public usually entails some costs. The fact that adoption and providing of new service to the public entails a cost in and of itself would not logically lead to the conclusion that there has been any type of undue economic burden or adverse economic impact. Otherwise, any service that would add costs could be barred under such a test.**

9. At page 16, lines 12-17, you state that you have experience with SOA and LNP queries in response to a question concerning whether you have experience with the real life costs of LNP implementation.

- a. Indicate whether this means you have experience with the cost of SOA and LNP queries.
- b. If you have such experience, indicate the recurring and non-recurring cost associated with SOA and LNP queries.

**ANSWER:**

**9.a) Yes.**

**9.b) Please see Western Wireless' response to question 12 of the First Discovery Requests.**

10. At page 17, lines 11-13, you state that Petitioners have included fees for SOA non-recurring set up charge or non-recurring Service Order Administration "when estimated port volumes provide no justification for an automated SOA interface."

- a. Identify the specific Petitioners to which you refer.
- b. Indicate for each Petitioner identified in 10.a. whether you contend that the Petitioner's cost estimates for an automated SOA interface are unreasonable or whether you contend that an automated SOA cannot be justified, or both.
- c. Indicate whether Western Wireless utilizes an automated SOA.
- d. Indicate the recurring and non-recurring costs paid by Western Wireless for the SOA interface.

**ANSWER:**

**10.a) All Petitioners**

**10.b) We contend that automated SOA is not justified for the low port volume forecasts made by the Petitioners**

**10.c) Although irrelevant to the proceeding, Western does use an automated SOA interface**

**10.d) Objection, this interrogatory calls for information that is irrelevant and not likely to lead to admissible evidence.**

11. At page 17, lines 14-18, you state that "many of the Petitioners have not provided sufficient information in response to interrogatories to address the validity of switch upgrade cost claims at this time." Identify the Petitioners to which you refer.

**ANSWER: All Petitioners that have not provided actual switch vendor quotations.**

12. At page 18, lines 5-15, you state that Beresford Telephone has overstated SOA costs.

Identify all other Petitioners that you contend have overstated SOA costs.

**ANSWER: See response to 10.a.**

13. At page 18, lines 9-11, you state that Beresford can utilize the Number Portability Administration Center Help Desk to perform the SOA function for 24 ports for a total of \$360.

- a. Explain how you arrived at a cost of \$360.
- b. Is the Number Portability Administration Center Help Desk and automated SOA interface?
- c. Does Western Wireless utilize the Number Portability Administration Center Help Desk?
- d. If Western Wireless does not utilize the Number Portability Administration Center Help Desk, explain why it does not and identify the factors that resulted in Western Wireless selecting a different SOA interface.
- e. How long does it take to complete a port using the Number Portability Administration Center Help Desk?
- f. Identify the annual number of port requests that Western Wireless has projected it will make of each of the Petitioners for the years 2004 through 2010.

**ANSWER:**

**13.a) The \$360 figure was estimated by taking the number of ports and multiplying by the estimated per port line charge for SOA services (\$15).**

**13.b) No.**

13.c) Western Wireless does use the Number Portability Administration Center Help Desk in certain situations.

13.d) N/A

13.e) The transaction time for using the Number Portability Administration Center Help Desk is estimated to take less than 2 minutes.

13.f) Please see Exhibit B.

14. At page 19, lines 1-3, you state that “Western Wireless estimates the cost of routing traffic to these ported numbers to be \$1,120 for the year including non-recurring charges.” Explain with specificity how you derived this amount.

**ANSWER:** The estimate was calculated using these inputs:

- A \$400 estimated non-recurring charge for reconfiguration of existing trunk group to Qwest tandem.
- West River estimate of annual ports – 12
- Qwest toll transit rate - \$.003123
- Estimated local calls originated each day on West River network to each ported number – 6
- Estimated average length of local calls originated on West River network to ported numbers – 3.5 minutes
- Assuming a traffic volume estimate after 2.5 years of port activity
- The monthly recurring cost was calculated using this formula: (Annual Ports\*2.5 years)\*(local calls per day\*length of calls\*days per month)\*transit rate  
Alternatively:  $(12*2.5)*(6*3.5*30)*0.003123 = \$59.02 \text{ per month} \times 12 \text{ months} = \$708$

*$NRC \text{ of } \$400 + 12 \text{ Months of MRC of } 708 = 1^{st} \text{ year costs of } \$1108$*

15. At page 19, lines 1 and 2, you state “[a]ssuming these porting customers to have average incoming call characteristics...”, identify with specificity what are the “average incoming call characteristics” to which you refer.

**ANSWER:** See input assumptions in response 14.

16. At page 19, lines 8-10, you state that you believe the FCC “views that it is the originating carrier’s responsibility to deliver local traffic for termination...”

- a. For each of the Petitioners, identify the calls to Western Wireless numbers by number and routing arrangement, for which Petitioner pays reciprocal compensation to Western Wireless.
- b. Indicate whether you contend that Petitioners would be required to pay reciprocal compensation on calls to numbers ported from the Petitioner to Western Wireless.

**ANSWER:**

**16.a) Objection, the interrogatory is irrelevant and unlikely to lead to admissible evidence and is also overly burdensome and unduly broad in that it seeks information on calling arrangements and number and routing arrangements not related to LNP. Further, each Petitioner would have this information readily available in their existing records.**

**16.b) Yes.**

17. At page 20, lines 5-8, you state that you eliminated switch maintenance cost because LNP does not result in additional increase in this cost. At Addendum D to your Answers to Interrogatories, Local Number Portability Operations Agreement, Section 7.3, states that “[e]ach Party shall monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.” Reconcile these two statements.

**ANSWER: Switch maintenance and routing table management should be routine practice that is not altered by Local Number Portability operations.**



18. At page 20, lines 13-15, you state that “[t]he routing methods proposed by the Petitioners are inefficient in that they make little or no utilization of existing equipment and shared facilities currently used to exchange calls with other carriers.” Identify with specificity and for each Petitioner, the “existing equipment and shared facilities currently used to exchange calls with other carriers” to which you refer.

**ANSWER: Trunk groups that currently deliver wireless and other carrier traffic to Petitioners directly from Qwest or any other common/shared trunk group that is connected to the PSTN.**

19. At page 22, lines 18-23 and page 23, lines 1-4, you state that if Petitioners do not implement LNP it will limit wireless to wireless number portability because wireless carriers use numbers assigned to them by LECs.

a. Are you required to use numbers assigned by LECs? If you contend that you are so required, identify the requirement.

b. Can Western Wireless obtain its own numbers and not use those assigned by LECs? If you contend that Western Wireless cannot obtain its own numbers, explain why not.

**ANSWER:**

**19.a) No, Western Wireless is not required to use numbers assigned by LECs, however, the Petitioners are required to provide them. Many of Western Wireless’ customers and other wireless customers are currently served by numbers provided by LECs.**

**19.b) Yes, but it would take months and would not resolve porting issues for existing customers.**

20. At page 23, lines 9-11, you state that “Qwest has experienced a substantial loss of customers to competitors since the advent of number portability.”

- a. Identify the basis for this statement.
- b. Identify the number of customers lost by Qwest since the advent of number portability in South Dakota.
- c. Identify the number of customers lost by Western Wireless since the advent of number portability in South Dakota.

**ANSWER:**

**20.a) This statement was based on discussions with CLEC's in South Dakota and on transit billing volume changes for Western Wireless traffic delivered to CLEC CLLIs.**

**20.b) Western Wireless does not have specific customer counts for Qwest line loss in South Dakota.**

**20.c) Objection, this interrogatory calls for information that is irrelevant and not likely to lead to admissible evidence and the question is vague. Without waiving the objection, Western Wireless answers as follows: Western Wireless has experienced people leaving Western Wireless for other wireless providers and people leaving other wireless providers and coming to Western Wireless. Further, Western Wireless has experienced people wishing to leave Western Wireless who have not been able to port their numbers because Petitioners have refused to implement LNP.**

21. At page 25, lines 3-7, you state that "it is unfair that carriers who we compete with, that are similarly obligated, would be exempted from their obligations and thereby limit our ability to recoup the LNP investments we have made by restricting our opportunity to leverage those investments in a competitive marketplace."

- a. Do you believe it would also be unfair if the Petitioners' opportunity to leverage LNP investments was restricted?
- b. Assuming the Petitioners were LNP capable, identify by Petitioner and by rate center all rate centers where Western Wireless would be required to port numbers from Western Wireless to the Petitioner.

**ANSWER:**

**21.a) To the extent that Petitioners have to abide by the same coverage and rate center rules as other carriers, Yes.**

**21.b) Western Wireless would be obligated to port numbers where the Petitioner provides service.**

**22. At Exhibit 5A and 5B of your testimony, you list recurring and non-recurring transport costs**

**for some Petitioners. For each Petitioner, explain how the recurring and non-recurring**

**transport cost was derived. If no transport cost is listed for a Petitioner, explain why not.**

**ANSWER: Non-recurring costs in Exhibit 5A and 5B are, for the most part, those costs provided by the Petitioners. Any modifications made to these costs are explained in my testimony. Recurring costs in Exhibit 5A and 5B were developed as follows:**

**SOA: Ports per year / 12 months x \$15 Neustar (NPAC) help desk fee per port.**

**LNP Query: Cost provided by Petitioners or access lines in service x six originating calls per day x 30 days x .00075 per query**

**If no transport cost is listed for a Petitioner, the Petitioner has indicated they will have no numbers ported from their network.**

**23. At the conference call sponsored by the South Dakota Commission on June 1, 2004,**

**Western Wireless stated that the testimony and exhibits of Ron Williams include “general” and “company specific” portions. Identify by page and line number the parts of Mr.**

**Williams' testimony that are “general” and the parts that “company specific.” Also identify the Exhibits or parts thereof that are “general” and the ones that are “company specific.” For the testimony and Exhibits that are company specific, identify the company to which they apply.**

**ANSWER: These terms were used in regard to comments made during that meeting that Mr. Watkins constitutes a general expert and the costs experts were considered cost company specific experts. In that regard, all the testimony of Ron Williams replying to the issues raised by Mr. Watkins should be considered general testimony applying to policy**

and other issues raised by Mr. Watkins. Regarding company specific, the cost testimony of Williams is specific for each petitioner in that it replies to the specific cost testimony submitted by each petitioner. To the extent that the cost testimony could be argued to also apply to the public interest, convenience and necessity issues, the cost analysis is presented for that matter. The same would be said for the testimony of technical difficulties in implementing LNP. Namely, the technical testimony is directed at each petitioner specifically but may also be regarded as applying to general testimony regarding implementation issues.

24. Do you contend that imposing the LNP obligations on Petitioners is not unduly economically burdensome? If your answer to the preceding interrogatory is in the affirmative, please state the following with respect to each Petitioner:

- a. State in detail each fact, matter and circumstance upon which you rely to support your answer.
- b. Identify each person having knowledge of the facts that support your answer and state the substance of their knowledge.
- c. Identify all documents upon which you rely which support your answer.

**ANSWER: Yes.**

**24.a) Petitioners have failed in their burden to show undue economic burden in their refusal to provide their cost documents received from vendors. Refusal of the Petitioners to provide such documents makes it impossible to make a conclusion that undue economic burden exists. Further, Petitioners all have the financial ability to pay for LNP. See also responses to interrogatory 8 above.**

**24.b) Petitioners and their witnesses.**

**24.c) Discovery to date and prefiled testimony of Petitioners.**

25. On page 25, lines 1-3 of Mr. Williams' testimony, he states that "We have upgraded our network, implemented new processes, systems, and hired supporting resources to implement LNP in South Dakota. In other words, we have absorbed the costs of implementing LNP

under our FCC obligations.” Please list the cost Western Wireless has incurred for these various items in South Dakota.

**ANSWER: Objection, as this interrogatory calls for information that is not relevant or likely to lead to admissible evidence, unduly burdensome and overly broad and vague. Without waiving said objection, Western Wireless answers as follows: Such costs are not kept by State.**

## **B. DOCUMENT PRODUCTION**

1. At page 13, lines 15-21, you cite the testimony of Steven D. Metts. Provide a complete copy of Mr. Metts’ testimony that includes the cited language.

**ANSWER:**

**1) Q. “On Page 2 Line 21, beginning on 20 and 21 you state the purpose of your testimony. Is it your contention that suspension of the FCC requirements is based upon technological incapability for any of your companies?”**

**A. “No.”**

**See attached Exhibit C.**

2. Provide all documents referenced in your responses to Interrogatories 1-25.

**ANSWER: Documents previously provided otherwise. Also, see attached Exhibits A, B and C.**

DATED this \_\_\_\_\_ day of June, 2004.

WWC License, LLC

By \_\_\_\_\_  
Ron Williams

Its \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this, the \_\_\_\_\_ day of \_\_\_\_\_ 2004, before me, the undersigned officer, personally appeared \_\_\_\_\_ as \_\_\_\_\_ of WWC License LLC, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

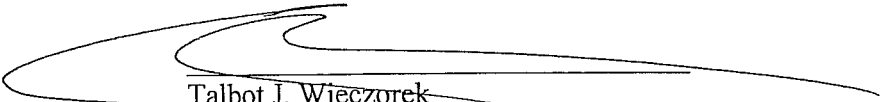
\_\_\_\_\_  
Notary Public

(SEAL)  
My Commission Expires:  
\_\_\_\_\_

Dated this 11 day of June, 2004.

**AS TO OBJECTIONS:**

GUNDERSON, PALMER, GOODSSELL  
& NELSON, LLP



Talbot J. Wiczorek

Attorneys for WWC License LLC

440 Mt. Rushmore Road, Fourth Floor

P.O. Box 8045

Rapid City SD 57709

Phone: 605-342-1078

Fax: 605-342-0480

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 11 day of June, 2004, I served a true and correct copy of WWC's Responses to Petitioners Supplemental Discovery Requests in LNP Dockets, by email and Next Day Delivery, postage paid to:

**dprogers@riterlaw.com**

Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
319 South Coteau Street  
PO Box 280  
Pierre, SD 57501

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Sioux Valley Telephone Co  
Golden West, Vivian Telephone Co and Kadoka  
Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
Beresford Municipal Telephone Company  
McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
Stockholm-Strandburg Telephone Company  
Tri-County Telcom  
Cheyenne Sioux Tribe

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**Attorney for:**

Santel Communications



**rjh1@brookings.net**

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And

Benjamin Dickens  
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Washington, DC 20037

**Attorneys for:**

Brookings Municipal Utilities d/b/a Swiftel Communications

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**Attorney for:**

James Valley Cooperative Telephone Company

**dag@magt.com**

David Gerdes  
503 S. Pierre Street  
Pierre, SD 57501

**Attorney for:**

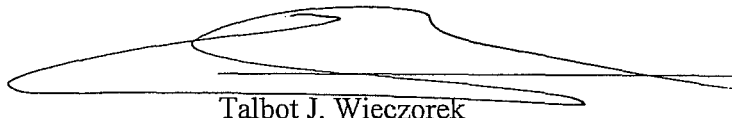
Midcontinent

**richcoit@sdtanonline.com**

Richard Coit  
SD Telecommunications Assoc.  
PO Box 57  
320 E Capitol Ave  
Pierre SD 57501-0057

**Attorney for:**

South Dakota Telecommunications Assoc.



Talbot J. Wiczorek

## EXHIBIT A TO WWC REPLY TO PETITIONERS' SUPPLEMENTAL DISCOVERY REQUEST

**Similarly Situated Carriers***ND LEC's with Similar Profiles to SD Petitioners*

STATE	NAME	STATUS	ICA	Suspension Filed?	LNP DATE	ACCESS LINES	Number of Switches
ND	NORTHWEST COMMUNICATIONS COOPERATIVE	SENT BFR	Y	No	5/24/2004	5,302	15
ND	CONSOLIDATED TELCOM	SENT BFR	Y	No	5/24/2004	8,713	19
ND	DAKOTA CENTRAL TELECOMMUNICATIONS COOP.	SENT BFR	Y	No	5/24/2004	5,228	8
ND	DICKEY RURAL TELEPHONE COOPERATIVE	SENT BFR	Y	No	5/24/2004	5,400	17
ND	GRIGGS COUNTY TELEPHONE CO.	SENT BFR	Y	No	5/24/2004	2,171	4
ND	INTER-COMMUNITY TELEPHONE COMPANY, LLC	SENT BFR	Y	No	5/24/2004	2,626	9
ND	BEK COMMUNICATIONS COOPERATIVE	SENT BFR	Y	No	5/24/2004	7,267	18
ND	MOORE & LIBERTY TELEPHONE CO.	SENT BFR	Y	No	5/24/2004	998	2
ND	POLAR COMMUNICATIONS MUTUAL AID CORP.	SENT BFR	Y	No	5/24/2004	9,233	22
ND	POLAR TELECOMMUNICATIONS, INC.	SENT BFR	Y	No	5/24/2004	1,604	7
ND	RESERVATION TELEPHONE COOPERATIVE	SENT BFR	Y	No	5/24/2004	7,812	20

**EXHIBIT B TO WWC'S RELY TO SUPPLEMENTAL DISCOVERY****Western Wireless Corp.**

LEC	Projected Port Requests (first 5 years of porting)
ALLIANCE/SPLITROCK TOTAL	660
BERESFORD MUNICIPAL TELEPHONE CO.	96
CHEYENNE RIVER SIOUX TRIBAL TELEPHONE AUTH.	230
CITY OF BROOKINGS MUNICIPAL TELEPHONE DEPT.	1117
CITY OF FAITH MUNICIPAL TELEPHONE CO.	0
FORT RANDALL TELEPHONE COMPANY/MT. RUSHMORE	458
GOLDEN WEST COMPANY - KADOKA TELEPHONE CO.	42
GOLDEN WEST COMPANY - UNION TELEPHONE CO.	122
GOLDEN WEST COMPANY-BRDGWATER-CANISTOTA TELEPHONE CO. (Armour)	224
GOLDEN WEST TELEPHONE COOPERATIVE, INC.	1101
INTERSTATE TELECOM. COOP., INC. - SOUTH DAKOTA	1019
JAMES VALLEY COOPERATIVE TELEPHONE COMPANY	284
KENNEBEC TELEPHONE CO.	54
MCCOOK COOPERATIVE TELEPHONE COMPANY	154
MIDSTATE COMMUNICATIONS, INC.	323
RC COMMUNICATIONS, INC./ROBERTS COUNTY	147
SANTEL COMMUNICATIONS COOPERATIVE, INC.-SD	348
SIOUX VALLEY TELEPHONE CO.- GOLDEN WEST COMPANY	397
STOCKHOLM - STRANDBURG TELEPHONE CO.	52
TRI-COUNTY TELCOM, INC.	31
VALLEY TELECOM COOPERATIVE ASSOCIATION, INC.	253
VENTURE COMMUNICATIONS COOPERATIVE	173
VIVIAN TELEPHONE CO.	1279
WEST RIVER COOPERATIVE TELEPHONE COMPANY	272
WEST RIVER TELECOMMUNICATIONS COOP (MOBRIDGE) - SD	181
WESTERN TELEPHONE CO.	77

1 implementation.

2 Q. Do you have any sense or any feel for what  
3 the additional charges incurred by each of these  
4 companies is?

5 A. No. Those companies withdrew before we had  
6 the data request for the costs and did not submit any  
7 costs to me.

8 Q. On Page 2 Line 21, beginning on 20 and 21 you  
9 state the purpose of your testimony.

10 Is it your contention that suspension of  
11 the FCC requirements is based upon technological  
12 incapability for any of your companies?

13 A. No.

14 Q. If you would, turn to Page 5, as well.

15 A. (Witness complies.)

16 Q. When was the FCC Order -- referring to Page  
17 5, when was the FCC Order issued?

18 A. November 10th, 2003.

19 Q. So all of the NMECG members have known since  
20 then that they were going to have to be within  
21 compliance?

22 A. Yes.

23 Q. When did ENMR and ValleyTel apply for a  
24 request of waiver to the FCC?

25 A. I don't know that.

## CERTIFICATE OF SERVICE

I hereby certify that an original and ten (10) copies of the enclosed document were hand-delivered to the South Dakota PUC on June 14, 2004, directed to the attention of:

Pam Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

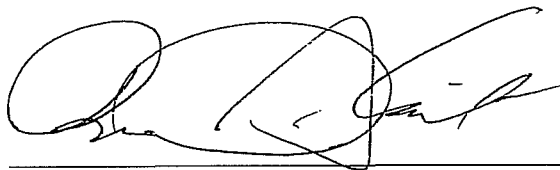
A copy was sent via e-mail and overnight Federal Express to the following individual:

Talbot Wieczorek  
Gunderson Palmer Goodsell & Nelson  
440 Mount Rushmore Road  
Rapid City, SD 57701

A copy was sent via e-mail and US Postal Service First Class mail to the following individual:

David Gerdes  
May Adam Gerdes & Thompson  
503 S. Pierre Street  
Pierre, SD 57501

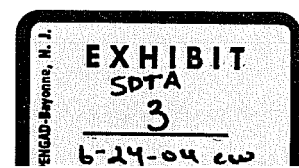
Dated this 14<sup>th</sup> day of June, 2004.

A handwritten signature in black ink, appearing to read 'Richard D. Coit', is written over a horizontal line.

Richard D. Coit, General Counsel  
South Dakota Telecommunications Association  
PO Box 57 – 320 East Capitol Avenue  
Pierre, SD 57501-0057

Alliance Communications Cooperative  
Armour Independent Telephone Company<sup>1</sup>  
Beresford Municipal Telephone Company  
Bridgewater-Canistota Independent Telephone<sup>1</sup>  
Cheyenne River Sioux Tribe Telephone Authority  
Faith Municipal Telephone Company  
Fort Randall Telephone Company  
Golden West Telecommunications Cooperative  
Interstate Telecommunications Cooperative  
James Valley Telecommunications  
Jefferson Telephone Company dba Long Lines  
Kadoka Telephone Company<sup>1</sup>  
Kennebec Telephone Company  
McCook Cooperative Telephone Company  
Midstate Communications, Inc.  
Mount Rushmore Telephone Company  
Roberts County Telephone Cooperative  
RC Communications, Inc.<sup>2</sup>  
Santel Communications Cooperative, Inc.  
Sioux Valley Telephone Company<sup>1</sup>  
Splitrock Properties, Inc.<sup>3</sup>  
Stockholm-Strandburg Telephone Company  
Swiftel Communications  
Tri-County Telcom, Inc.  
Union Telephone Company<sup>1</sup>  
Valley Telecommunications Cooperative  
Venture Communications Cooperative  
Vivian Telephone Company<sup>1</sup>.  
West River Cooperative Telephone Company  
West River Telecommunications Cooperative  
Western Telephone Company

1. A subsidiary of Golden West Telecommunications Cooperative.
2. A subsidiary of Roberts County Telephone Cooperative Association
3. A subsidiary of Alliance Communications



LAW OFFICES  
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E.D. MAYER  
ROBERT C. RITER, Jr.  
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JOHN L. BROWN

**OF COUNSEL**  
Robert D. Ho  
**TELEPHONE**  
605-224-582  
605-224-788  
**FAX**  
605-224-710

23  
March 24, 2004

Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

Re: Reciprocal Interconnection, Transport and Termination Agreement between  
Interstate Telecommunications Cooperative, Inc. and WWC License LLC (West-  
ern Wireless)

Dear Ms. Bonrud:

Pursuant to 47 U.S.C. § 252(e), Interstate Telecommunications Cooperative, Inc. and Western Wireless hereby jointly submit and request Commission approval of the attached "Reciprocal Interconnection, Transport and Termination Agreement." This agreement was voluntarily negotiated and has been executed by both parties. The parties believe the agreement meets the standards applicable to such agreements set forth in Section 252(e)(2) and, accordingly, urge its prompt approval by the Commission.

In accord with Staff directions, I am enclosing <sup>10</sup>three copies of the Agreement.

If there are any questions or any further action is needed by either of the parties please feel free to contact me at 605-224-7889, or Ron Williams of Western Wireless at 425-586-8360.

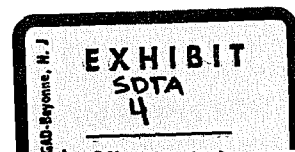
Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures



## **RECIPROCAL INTERCONNECTION, TRANSPORT AND TERMINATION AGREEMENT**

This Reciprocal Interconnection, Transport and Termination Agreement ("Agreement") is entered into by and between Interstate Telecommunications Cooperative, Inc. ("the Telephone Company"), and WWC License L.L.C. ("the CMRS Provider"). The Telephone Company and the CMRS Provider are each individually a "Party" and are together the "Parties" to this Agreement.

WHEREAS, the Telephone Company is an Incumbent Local Exchange Carrier which is operating as a Rural Telephone Company in the State of South Dakota;

WHEREAS, the CMRS Provider is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service Provider;

WHEREAS, the Telephone Company and the CMRS Provider desire to establish arrangements between one another for the exchange of telecommunications traffic between their respective networks for the benefit of the Parties and their customers.

WHEREAS, the Parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of telecommunications traffic in accordance with Section 251(b)(5) of the Telecommunications Act of 1996.

WHEREAS, the Parties agree that their entry into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters related to the same types of arrangements covered in this Agreement, and;

NOW, THEREFORE, in consideration of the foregoing and the undertakings contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Telephone Company and the CMRS Provider agree as follows:

This Agreement sets forth the terms, conditions and prices under which (a) the Parties agree to directly interconnect the networks of the CMRS Provider and the Telephone Company for the purposes of the exchange of telecommunications traffic between the Parties' networks or (b) the Parties will transport and terminate the telecommunications traffic originated by the other Party and delivered via the network of a Third Party Provider. This Agreement is not intended to establish any terms, conditions, or pricing applicable to the provisioning of any transiting service.

Except as otherwise expressly provided for herein, this Agreement does not obligate either Party to provide arrangements or transport or terminate traffic not specifically provided for herein. Except as otherwise expressly provided for herein, this Agreement has no effect on the definition of End User services that either Party offers to its End User Customers, the services either Party chooses to offer to its respective End User Customers, the rate levels or rate structures that either Party charges its End Users for services, or the manner in which either Party provisions or routes the services either Party provides to its respective End User Customers.

This Agreement is not, however, intended to address any issues or disagreements that may exist between the Parties concerning the interpretation and application of provisions found in 47



U.S.C. § 332(c) and whether CMRS Provider, in providing certain wireless communications services, is subject to Commission regulation, including, but not limited to regulations requiring providers of local exchange type services to seek a certificate of authority from the Commission prior to offering such services.

Further, this agreement does not address the additional service obligations imposed on incumbent local exchange carriers pursuant to 47 U.S.C. § 251(c) and is based on a request for services pursuant to 47 U.S.C. §§ 251(a) and 251(b). By this Agreement neither Party waives any rights it may have under the Federal Act or rules of the FCC, under state statute, or pursuant to rules of the Commission. Such rights may include CMRS Provider's right to request a review of the rural telephone company exemption provided for under 47 U.S.C. § 251(f) and South Dakota Codified Laws § 49-31-79 and Telephone Company's right to seek to maintain the exemption.

The Parties further agree and understand that the per minute reciprocal transport and termination rates set forth in Appendix A to this Agreement are not based on a specific costing methodology or company specific cost study.

## 1.0 Definitions

Definitions of the terms used in this Agreement are listed below. The Parties agree that certain terms may be defined elsewhere in this Agreement, as well. Terms not defined shall be construed in accordance with their customary meaning in the telecommunications industry as of the effective date of this Agreement.

"Act" means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended.

"Cell Site" means the location of radio transmitting and receiving facilities associated with the origination and termination of wireless traffic to a wireless End User.

"Commercial Mobile Radio Service" or "CMRS" has the meaning given to the term in the Act.

"Commission" means the South Dakota Public Utilities Commission.

"Conversation Time" means the time (in full second increments) that both Parties' equipment is used for a call, measured from the receipt of answer supervision to disconnect supervision.

"EAS Service Area" means a group of two or more exchanges, as defined in the Telephone Company's local exchange tariff or as implemented through Telephone Company practice, among which a Telephone Company Customer of either exchange may make landline-to-landline calls without incurring a toll charge.

"End Office" means a local Telephone Company switching point where the Telephone Company customer station loops are connected for purposes of interconnection to each other and to the network.

"End User" means, whether or not capitalized, any business, residential or governmental Customer of services provided by a Party, and includes the term "Customer" and "Subscriber". More specific meanings of either of such terms are dependent upon the context in which they appear in the Agreement and the provisions of the Act.

"FCC" means the Federal Communications Commission.

"Incumbent Local Exchange Carrier or Incumbent LEC" has the meaning given the term in the Act.

"Indirectly Connected" refers to a network arrangement in which the networks of the Parties are connected through a Third Party Provider's facilities.

"Interconnection" refers to the connection of separate pieces of equipment, facilities, or platforms between or within networks for the purpose of transmission and routing of Telecommunications.

"Inter-exchange Carrier" or "IXC" means a telecommunications carrier that provides toll telephone service, as the latter term is defined in the Act.

"InterLATA Service" has the meaning given the term in the Act.

"InterMTA traffic" means all wireless to wireline calls, which originate in one MTA and terminate in another MTA based on the location of the connecting cell site serving the wireless end user and the location of the end office serving the wireline end user.

"Local Traffic," for purposes of this Agreement, means: (1) for wireless to wireline calling, traffic exchanged between the CMRS Provider and the Telephone Company that, at the beginning of the call, originates and terminates within the same MTA based on the location of the connecting cell site serving the originating wireless end user and the location of the end office serving the terminating wireline end user; and (2) for wireline to wireless calling, traffic exchanged between the Telephone Company and the CMRS Provider that originates in a Telephone Company exchange and terminates to a CMRS Provider NXX that has its rate center within the Telephone Company exchange or within the Local Calling Area as set forth in Appendix B to this Agreement.

"Mobile Switching Center" or "MSC" means a CMRS Provider's facilities and related equipment used to route, transport and switch commercial mobile radio service traffic to and from and among its end Users and other telecommunications carriers.

"Major Trading Area" or "MTA" has the meaning given to the term in 47 CFR Section 24.202(A).

"NXX", "NXX Code", "Central Office Code", or "CO Code" is the 3-digit switch indicator that is defined by the D, E, and F digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 telephone numbers.

"Party" means either the CMRS Provider or the Telephone Company, and "Parties" means the CMRS Provider and the Telephone Company.

"Point of Interconnection" or "POI" means a physical location where the Telephone Company and the CMRS Provider interconnect their respective networks thereby establishing the technical interface and points for operational division of responsibility.

"Tandem" means a switching system that, through a trunk-to-trunk connection, provides a concentration and distribution function for originating or terminating traffic between end offices, other tandems and Third Party Providers'.

"Telecommunications" has the meaning given in the Act.

"Telecommunications Carrier" has the meaning given in the Act.

"Termination" means the switching of Traffic at the terminating carrier's end office switch, or equivalent facilities, and delivery of such traffic to the called party.

"Third Party Provider" shall mean any facilities-based telecommunications carrier, including, without limitation, Interexchange Carriers, independent telephone companies, competitive local exchange carriers, or CMRS Providers that carries transiting traffic. The term shall not mean resellers of a LEC's local exchange services or resellers of a CMRS Provider's services.

"Traffic" includes Local Traffic and InterMTA Traffic.

"Transport" means the transmission of traffic from the POI between the two Parties or from the interconnection point of the Third Party Provider and a Party to the Party's switch that directly serves the called party. In the case of a Type 2A connection Transport includes Tandem Switching.

"Trunk Group" means a set of trunks of common routing, origin and destinations, and which serve a like purpose or function.

"Trunk Side" means a Party's connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example another Telephone Company to CMRS Provider switch. Trunk Side connections offer those transmission and signaling features appropriate for the connections of switching entities.

## 2.0 Description of Traffic

2.1 This agreement applies both to Local and to interMTA traffic originated by the End User subscribers of one Party and terminated to end-user subscribers of the other Party which is (a) delivered over facilities owned or controlled by the Parties, which directly interconnect the Parties or, (b) indirectly connected, i.e., delivered over a Third Party Provider's transiting facilities. Local Traffic is subject to local Transport and Termination charges as described in Appendix A. InterMTA Traffic is subject to Telephone Company's interstate or intrastate access charges.

2.2 The Parties recognize that the Federal Communications Commission issued its Order on Remand and Report and Order on Intercarrier Compensation for ISP-bound Traffic in its Docket No. 96-98 on April 27, 2001, and that Telephone Company and various other parties have filed appeals of that Order. The Parties agree that ISP-bound traffic between them, if any, is presently de minimus. If a Party has reason to believe that enhanced service and Internet traffic is not de minimus, that Party may reopen negotiations to determine an appropriate method for identifying such traffic, and, so long as the FCC Order referred to above is final and outstanding, such traffic above a de minimus level shall be transported and terminated in accord with the interim compensation regime established by the FCC in the Order. If Telephone Company, with respect to traffic originated by its incumbent LEC subscribers, elects to invoke the rate cap for ISP-bound traffic established in the FCC's Order on Remand and Report and Order on Intercarrier Compensation for ISP-bound Traffic in its Docket No. 96-98 with respect to any telecommunications carrier, the Telephone Company and the CMRS Provider will begin exchanging all Local Traffic at the capped rate on the effective date of the implementation of the rate cap.

### 3.0 Direct Interconnection of the Party's Facilities Where a Third Party Provider Is Not Utilized

This Section describes the network architecture with which the Parties to this Agreement may interconnect their respective networks for the Transport and Termination of traffic.

#### 3.1 Interconnection Facilities

3.1.1 Type 1 Interconnection: Facilities which provide line side connections between a Telephone Company end office and the CMRS Provider's POI within that end office boundary. Type 1 facilities provide the capability to exchange traffic between the CMRS Provider subscribers and Telephone Company subscribers served only by that Telephone Company end office and other end offices within the Local Calling Area as designated in Appendix B, subject to the capabilities and use of the interconnection as described in Exhibit 1 attached to this Agreement.

3.1.2 Type 2A Interconnection: Facilities which provide a trunk side connection between the CMRS Provider and a Telephone Company End Office or Tandem switch that is capable of trunk to trunk switching, as specified in Appendix B. The CMRS Provider's POI must be located within the Telephone Company's exchange boundary of that Telephone Company End Office or Tandem switch. Type 2A facilities provide the capability for the CMRS provider with a NPA-NXX in that rate center to exchange traffic between the CMRS provider subscribers and Telephone Company subscribers served only by that Telephone Company end office and other end offices subtending the switch where the Type 2A connection is established.

3.1.2.1 For CMRS traffic terminating to the Telephone Company, the Telephone Company will terminate traffic from the POI to any end user in the intra-company exchanges that subtend the Tandem/Intermediate/Host office (as specified in Appendix B) where the CMRS Provider is directly connected.

3.1.2.2 Only Local Traffic originating from the Telephone Company end users in the LEC Local Calling Area (as specified in Appendix B) will be delivered by the Telephone Company to the CMRS Provider POI.

3.1.3 Type 2B Interconnection: Facilities which provide a trunk side connection between the CMRS Provider and the Telephone Company end office. The CMRS Provider's POI must be located within the Telephone Company's end office exchange boundary of that Telephone Company end office. Type 2B facilities provide the capability for the CMRS Provider with a NPA-NXX in that rate center to exchange traffic between the CMRS Provider subscribers and the Telephone Company-subscribers served only by that Telephone Company end office and other end offices within the Local Calling Area as designated in Appendix B, subject to the capabilities and use of the interconnection as described in Exhibit 1 attached to this Agreement.

3.1.4 The Parties shall provide each other a forecast of projected mobile to land or land to mobile usage for each point of interconnection when significant changes in

traffic patterns are anticipated. The Parties agree to work cooperatively to determine the number of trunks needed to handle the estimated traffic. Upon mutual agreement of the Parties, Type 1, Type 2A, and Type 2B facilities may be either one-way or two-way.

3.1.4.1 When both Parties agree to utilize and implement two-way facilities, charges will be shared by the Parties on a proportional percentage basis as specified in Appendix A "Shared Facility Factor". The Parties shall review actual minutes capable of being transported on shared two way facilities and modify the percentages specified in Appendix A three months from the Executed Date of this Agreement and every twelve months thereafter. The modified percentages shall be used to true-up, on a going forward basis, the charges between the Parties.

3.1.4.2 When both Parties agree to utilize one-way facilities in the land-to-mobile direction or in the event that Western Wireless chooses to implement only one-way land-to-mobile facility use, charges will be shared by the Parties on a proportional percentage basis as specified in Appendix A 7.0 "Shared Facility Factor". In the event Western Wireless subsequently implements mobile-to-land use of these facilities, the provisions of 3.1.4.1 shall apply.

## 3.2 Facility Locations

### 3.2.1 Technical Feasibility

3.2.1.1 Appendix B contains the existing POIs established between the Parties. The CMRS Provider and Telephone Company may establish additional POIs, from time to time, in accordance with this Agreement. Appendix B also contains information on the other locations where direct interconnection with the Telephone Company's network may be requested.

3.2.1.2 Both Parties recognize the Telephone Company may make modifications to its network architecture, NPA-NXX utilization, or Local Calling Area that impact the "Interconnection and Local Calling Data" contained in Appendix B. In the event the Telephone Company intends to make modifications that impact Appendix B, the Telephone Company will provide 90 days advance notice of any such modifications to CMRS Provider where such modifications will impact traffic routed over direct interconnect facilities.

### 3.2.2 Incumbent LEC Requirement

3.2.2.1 The Parties acknowledge that the services provided by Telephone Company under this Agreement are provided pursuant to the Telephone Company's obligations falling under 47 U.S.C. § 251(a) and 251(b) and that terms and conditions specified in this Agreement do not apply to the provision of services or facilities by the Telephone Company in those areas where the Telephone Company is not the incumbent LEC.

## 3.3 Additional Interconnection Methods Available to the CMRS Provider

- 3.3.1 The CMRS Provider may provide its own facilities and transport for the delivery of traffic from its MSC (or other mutually agreed upon point on the CMRS Provider's network) to the POI on the Telephone Company's network. Alternatively, the CMRS Provider may purchase an entrance facility and transport from a Third Party Provider or from the Telephone Company for the delivery of such traffic. Rates for entrance facilities and transport purchased from the Telephone Company are specified in the Telephone Company's Interstate Access Service Tariff or Intrastate tariff or pricing catalog.
- 3.3.2 The Parties may share the Telephone Company's interconnection facilities at the rates specified in applicable tariffs. Charges will be shared by the Parties based on their proportional (percentage) use of such facilities as specified in Appendix A Shared Facility Factor.

### 3.4 Technical Requirements and Standards

- 3.4.1 Each Party will provide the services in this Agreement to the other Party under reasonable and non-discriminatory conditions and at a standard that is at least equal in quality and performance to that which the Party provides to other connecting carriers. Either Party may request and the other Party will provide, to the extent technically feasible, services at a higher or lesser standard, provided however, that any such requests shall be considered a special request, and will be handled on a case-by-case basis.
- 3.4.2 Nothing in this Agreement will limit either Party's ability to modify its network, including, without limitation, the incorporation of new equipment and new software. Each Party will provide the other Party reasonable written notice, of any such modifications to its network, which will materially impact the other Party's service. Each Party will be solely responsible, at its own expense, for the overall design of its telecommunications services and for any redesigning or rearrangement of its telecommunications services which may be required as a consequence of this Agreement, including, without limitation, changes in facilities, operations or procedures, minimum network protection criteria, or operating or maintenance characteristics of facilities. These provisions shall not in any way affect the application of special construction charges of the Telephone Company, for the construction of new facilities, where such charges would otherwise be applicable in provisioning the new or additional service.

### 4.0 Transmission and Routing of Traffic

This Section provides the terms and conditions for the exchange of traffic between the Parties' respective networks for the transmission and routing by the Parties of wireless Traffic.

#### 4.1 Mobile to Land Traffic – Directly Interconnected

- 4.1.1 The CMRS Provider shall be responsible for the delivery of Traffic from its Network to the appropriate Point of Interconnection on the Telephone Company's network, as set forth in Appendix B, for the Transport and Termination of such traffic by the Telephone Company to one of its End Users.

- 4.1.2 If the CMRS Provider chooses to use the Telephone Company's services or facilities, not otherwise covered under this Agreement, appropriate tariff or pricing catalog rates, or rates established under separate agreement will apply.

#### 4.2 Land to Mobile Traffic – Directly Interconnected

- 4.2.1 The Telephone Company with which CMRS Provider has directly connected shall be responsible for the delivery of traffic from its End Users in the "Local Calling Area" connected to its network to the appropriate Point of Interconnection (within the exchange boundary of the end office in which the tandem, providing Type 2A Interconnection, is located, or within the exchange boundary of the end office providing Type 1 and/or Type 2B Interconnection) on the CMRS Provider's network for the Transport and Termination of such traffic by the CMRS Provider to its End User.

- 4.2.2 Telephone Company agrees that its landline customers will dial CMRS provider NPA-NXXs on a local basis, so long as the CMRS Provider NPA-NXX has been assigned by the North American Numbering Plan Administrator (NANPA) to an end office rate center in which a POI is physically located, and provided such local access is consistent with the capabilities and use of the direct interconnection established as described in Exhibit 1 to this Agreement. When the Parties are directly connected, Telephone Company agrees to deliver all such locally-dialed traffic to CMRS Provider at that Point of Interconnection with the CMRS Provider.

#### 4.3 Mobile to Land - Indirectly Connected via a Third Party Provider.

As an alternative to routing traffic covered by this Agreement through a Point of Interconnection, the CMRS Provider may choose to deliver traffic from its network to the Telephone Company via a Third Party Provider and thus be indirectly connected with the Telephone Company for the delivery of traffic originated on the CMRS Providers' network by the CMRS Providers' End Users.

#### 5.0 Transport and Termination Compensation

- 5.1 Rates - The CMRS Provider and the Telephone Company shall reciprocally and symmetrically compensate one another for Local Traffic terminated on either Party's network. The rates at which the Parties shall compensate each other for the Transport and Termination of Traffic are set forth in Appendix A hereto.

- 5.1.1 Telephone Company's access charges apply to the termination of InterMTA traffic.

- 5.1.2 The rates applicable to Local Traffic are set forth in Appendix A.

- 5.1.3 The Transport and Termination Services provided hereunder are intended for wireless to wireline or wireline to wireless, but not wireline to wireline communications. Such services will not be used to terminate other types of traffic on Telephone Company's network (such as wireline originated traffic) and services used in violation hereof shall constitute a breach of this Agreement. In addition to any other remedies available, the Party whose services have been

improperly used shall be entitled to recover the appropriate charges for such traffic for the entire period of misuse.

5.2 De Minimus Traffic - In the event the Traffic terminated on the Telephone company's network is de minimus such that the total minutes for compensation is less than 3,000 minutes of use for a three month period (or 1,000 minutes of use for a one month period if the Telephone Company bills monthly), the Parties agree that the Telephone Company shall not render a billing. It is agreed that the only compensation for that de minimus Traffic will be in the form of the reciprocal Transport and Termination services provided by the other Party, i.e., Traffic will be exchanged on a bill and keep basis, and no billing will be issued by the Telephone Company.

5.3 Conversation Time - For purposes of billing compensation, billed minutes will be based upon Conversation Time. Conversation Time will be determined (a) from actual usage recordings by the Parties or (b) records of terminating traffic provided by the Third Party Provider.

5.4 Measuring traffic - In order to determine whether traffic exchanged between the Parties' networks is Local or InterMTA traffic for purposes of determining compensation, the Parties agree to define the customer location as follows: for Telephone Company, the origination or termination point of a call shall be the Telephone Company's end office which serves, respectively, the calling or called End User. For CMRS Provider, the origination or termination point of a call shall be the connecting cell site, which serves, respectively, the calling or called party at the time the call begins.

#### 6.0 Transmission and Routing of Other Types of Traffic

The Parties agree that this Agreement does not provide for the exchange of 911/E911 traffic and that if such service is requested by the CMRS Provider that the Parties will negotiate a separate Agreement for such traffic.

Other ancillary traffic including wireless traffic destined for ancillary services including, but not limited to, directory assistance, operator call termination (busy line interrupt and verify), 800/888, LIDB, and information services requiring special billing will be exchanged and charged in accordance with the appropriate tariffs, local or switched access.

#### 7.0 Responsibilities of the Parties:

##### 7.1 Verification Reviews

7.1.1 The Parties will be responsible for the accuracy and quality of the data as submitted to the other Party. Upon reasonable written notice, either Party or its authorized representative shall have the right to conduct a review and verification of the other Party's data to give assurances of compliance with the provisions of this Agreement. The review will consist of an examination and verification of data involving records, systems, procedures and other information related to the services performed by the Party as related to settlement charges or payments made in connection with this Agreement. Each Party, whether or not in connection with an on-site verification review, shall maintain reasonable records for a minimum of twelve (12) months and provide the other Party with reasonable access to such information as is necessary to determine amounts receivable or payable under this Agreement.



7.1.2 Either Party's right to access information for verification review purposes is limited to data not in excess of twelve (12) months in age. Once specific data has been reviewed and verified, it is unavailable for future reviews. Any items not reconciled at the end of a review will, however, be subject to a follow-up review effort. Any retroactive adjustments required subsequent to previously reviewed and verified data will also be subject to follow-up review. Information of the Party involved with a verification review shall be subject to the confidentiality provisions of this Agreement.

7.1.3 The Party requesting a verification review shall fully bear its costs associated with conducting a review. The Party being reviewed will provide access to required information, as outlined in this section, at no charge to the reviewing Party. Should the reviewing Party request information or assistance beyond that reasonably required to conduct such a review, the Party being reviewed may, at its option, decline to comply with such request or may bill actual costs incurred in complying subsequent to the concurrence of the reviewing Party.

## 7.2 Billing

7.2.1 For directly connected arrangements between the Parties, the Telephone Company shall issue its bill to CMRS Provider based on actual usage recordings. For arrangements involving a Third Party Provider, the Telephone Company shall issue its bill based on the best information available including, but not limited to, records of terminating traffic created by the Telephone Company.

7.2.2 When a Third Party Provider indirect connected arrangement is used by the CMRS Provider to deliver traffic to the Telephone Company the Telephone Company may use its terminating records or usage reports and/or records (such as category 11-01-0-1 records) generated by a Third Party Provider whose network is used to indirectly connect the traffic as the basis for billing the CMRS Provider.

7.2.3 For billing purposes, if either Party is unable to classify on an automated basis the traffic delivered by CMRS as local traffic or interMTA traffic, a Percent InterMTA Use (PIU) factor will be used, which represents the estimated portion of interMTA traffic delivered by CMRS provider.

The initial PIU factor to be applied to total minutes of use delivered by the CMRS Provider shall be 3.0%. This factor shall be adjusted three months after the executed date of this Agreement and every six months thereafter during the term of this Agreement, based on a mutually agreed to traffic study analysis. Each of the Parties to this Agreement is obligated to proceed in good faith toward the development of a method of traffic study that will provide a reasonable measurement of terminated InterMTA traffic.

A Reciprocal Compensation Credit shall be calculated and applied to the billing from Telephone Company to the CMRS Provider to provide compensation for wireline to wireless traffic that the CMRS Provider receives from Telephone Company for termination. The amount of this credit shall be determined by applying the Reciprocal Compensation Credit formula set forth in Appendix A. The Reciprocal Compensation Credit will appear on the monthly or quarterly bill issued by Telephone Company as a credit against amounts due and payable from CMRS Provider to Telephone Company.

7.2.4 The Parties shall pay each other for all charges in accordance with the rates set forth in Appendix A of this agreement. Such payments are to be received within 30 days from the receipt of the billing statement. Undisputed charges, not paid within the 30 days from the receipt of the billing statement may be subject to a late charge at the rate of 1.5% per month or the maximum amount allowed by law. The Party collecting revenues shall be responsible for reporting and remitting all applicable taxes associated therewith.

7.2.5 Each Party will bear its own billing and collection expenses. In the event the CMRS Provider fails to send calling party number and/or other industry standard call record fields sufficient to identify CMRS Provider as the originating carrier for each Third Party Provider transit call terminated to the Telephone Company, CMRS provider will reimburse the Telephone Company for any Third Party Provider Call Detail Record (CDR) charges associated with those CMRS Provider usage records.

CMRS Provider agrees to pursue a joint process (negotiation, complaint, etc.) against Qwest with the intent of requiring Qwest to either transmit appropriate call data as part of their transit function or provide summary monthly terminating traffic reports to the Telephone Company which show the originating carrier and which would be workable for billing purposes.

7.2.6 If either Party disputes a billing statement issued by the other Party, the disputing Party shall notify the billing Party in writing regarding the nature and the basis of the dispute within thirty (30) days of the receipt of the statement. The Parties shall diligently work toward resolution of all billing issues

### 7.3 Network Maintenance and Management for Direct Interconnection

The Parties will work cooperatively to install and maintain reliable network facilities. The Parties will exchange appropriate information to achieve this desired reliability, subject to the confidentiality provisions herein.

7.3.1 Party shall provide a 24-hour contact number for network traffic management issues to the other's surveillance management center. A fax number must also be provided to facilitate notifications for planned mass calling events.

7.3.2 Neither Party will use any service provided under this Agreement in a manner that impairs the quality of service to other carriers or to either Party's subscribers. Either Party will provide the other Party notice of said impairment at the earliest practicable time.

7.3.3 Use of the CMRS Providers' facilities, or that of a third party in conjunction with any of the Telephone Company's facilities, shall not materially interfere with or impair service over any facilities of the Telephone Company, its affiliated companies or its connecting and concurring carriers involved in its services, cause damage to their plant, impair the privacy of any communications carrier over their facilities or create hazards to the employees of any of them or the public. Upon reasonable written notice and opportunity to cure, the Party whose facilities are being used may discontinue or refuse service to the other Party if the Party using the facilities violates this provision; provided, that such termination of service will be limited to the facilities being used that is subject of the violation.

- 7.3.4 Maintenance of Service Charge - When one Party reports trouble to the other Party for clearance and no trouble is found in the second Party's network, the reporting Party shall be responsible for payment of a Maintenance of Service Charge for the period of time when the second Party's personnel are dispatched. In the event of an intermittent service problem that is eventually found to be in the second Party's network, the reporting Party shall receive a credit for any Maintenance of Service Charges applied in conjunction with this service problem.

If a Party reports trouble to the other Party for clearance and the other Party's personnel are not allowed access to the reporting Party's premises, the Maintenance of Service Charge will apply for the time that the non-reporting Party's personnel are dispatched; provided that the Party's have arranged a specific time for the service visit.

- 7.4 Access to Numbering Resources – For Type 1 connections, the Telephone Company will provide the CMRS Provider access to numbering resources in the same fashion as they are provided to other Telecommunications Carriers.
- 7.5 Local Dialing Parity - The Telephone Company agrees that local dialing parity will be available to the CMRS Provider in accordance with the law to the same extent as it is available to other Telecommunications Carriers. The Telephone Company will not be responsible for Local Exchange Routing Guide ("LERG") entry.

The Parties agree that local and EAS dialing available to CMRS Provider NXXs will be as specified in Appendix B. Telephone Company agrees to provide Notice, according to Section 14.13, for any additions or deletions of rate centers associated with local calling area or EAS. Accordingly, the parties agree that the information contained in Appendix B pertaining to "Local Calling Areas", subsequent to such Notice, may be revised during the term of this Agreement.

## 8.0 Liability and Indemnification

- 8.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the Interconnection, functions, products and services which are provided by that Party, its authorized agents, subcontractors, or others retained by such parties, and neither Party shall bear any responsibility for the Interconnection, functions, products and services provided by the other Party, its agents, subcontractors, or others retained by such parties.
- 8.2 Each Party shall be indemnified and held harmless by the other Party against claims, losses, suits, demands, damages, costs, expenses, including reasonable attorney's fees ("Claims"), asserted, suffered, or made by third parties arising from (i) any act or omission of the indemnifying Party in connection with its performance or non-performance under this Agreement; (ii) actual or alleged infringement by the indemnifying Party of any patent, trademark, copyright, service mark, trade name, trade secret or intellectual property right (now known or later developed), and (iii) provision of the indemnifying Party's services or equipment, including but not limited to claims arising from the provision of the indemnifying Party's services to its End Users (e.g., claims for interruption of service, quality of service or billing disputes). Each Party shall also be indemnified and held harmless by the other Party against Claims of persons for services furnished by the indemnifying Party or by any of its subcontractors, under worker's compensation laws or similar statutes.

- 8.3 A Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any claim or loss arising from the Indemnifying Party's use of Interconnection, functions, products and services provided under this Agreement involving:
- 8.3.1 any Claim for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party's or its Customer's use.
  - 8.3.2 any claims, demands or suits that asserts any claim for libel, slander, infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly or indirectly, by the other Party's employees and equipment associated with the provision of any service herein. The foregoing includes any Claims or Losses arising from disclosure of any Customer-specific information associated with either the originating or terminating numbers used to provision Interconnection, functions, products or services provided hereunder and all other Claims arising out of any act or omission of the Customer in the course of using any Interconnection, functions, products or services provided pursuant to this Agreement.
  - 8.3.3 any and all penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (CALEA).
- 8.4 Neither Party makes any warranty, express or implied, concerning either Party's (or any third party's) rights with respect to intellectual property (including without limitation, patent, copyright and trade secret rights) or contract rights associated with either Party's right to interconnect. Nothing in this Section will be deemed to supersede or replace any other agreements, if any, between the Parties with respect to either party's intellectual property or contract rights.
- 8.5 Each Party ("Indemnifying Party") shall reimburse the other Party ("Indemnified Party") for damages to the Indemnified Party's equipment, Interconnection trunks and other property utilized to provide Interconnection hereunder caused by the negligence or willful act of the Indemnifying Party, its agents, subcontractors or Customer or resulting from the Indemnifying Party's improper use of the Indemnified Party's equipment, Interconnection trunks or other property, or due to malfunction of any functions, products, services or equipment of the Indemnifying Party or of any other party that have been provided to the Indemnifying Party. Upon reimbursement for damages, the Indemnified Party will cooperate with the Indemnifying Party in prosecuting a claim against the person causing such damage. The Indemnifying Party shall be subrogated to the right of recovery by the Indemnified Party for the damages to the extent of such payment.
- 8.6 Indemnification Procedures
- 8.6.1 Whenever a claim shall arise for indemnification, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.

- 8.6.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party.
- 8.6.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.
- 8.6.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such Claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.
- 8.6.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.
- 8.6.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.
- 8.6.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.
- 8.6.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.
- 8.6.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 9.

8.7 Apportionment of Fault. Except for losses alleged or claimed by a Customer of either Party and except as otherwise provided in specific appendices, in the case of any loss alleged or claimed by a third party arising out of the negligence or willful misconduct of both Parties, each Party shall bear, and its obligation under this Section shall be limited to, that portion of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.

8.7.1 The Parties are not liable for any act or omission of other Providers.

8.7.2 Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege

## 8.8 NO CONSEQUENTIAL DAMAGES

NEITHER THE TELEPHONE COMPANY NOR THE CMRS PROVIDER SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES SUFFERED BY SUCH OTHER PARTY (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY SUCH OTHER PARTY), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTIES KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT. EACH PARTY HEREBY RELEASES THE OTHER PARTY (AND SUCH OTHER PARTY'S SUBSIDIARIES AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS) FROM ANY SUCH CLAIM. NOTHING CONTAINED IN THIS SECTION WILL LIMIT EITHER PARTIES LIABILITY TO THE OTHER FOR (i) WILLFUL OR INTENTIONAL MISCONDUCT (INCLUDING GROSS NEGLIGENCE) OR (ii) BODILY INJURY, DEATH, OR DAMAGE TO TANGIBLE REAL OR TANGIBLE PERSONAL PROPERTY TO THE EXTENT PROXIMATELY CAUSED BY THE TELEPHONE COMPANY'S OR THE CMRS PROVIDER'S NEGLIGENT ACT OR OMISSION OR THAT OF THEIR RESPECTIVE AGENTS, SUBCONTRACTORS OR EMPLOYEES, NOR WILL ANYTHING CONTAINED IN THIS SECTION LIMIT THE PARTIES' INDEMNIFICATION OBLIGATIONS, AS SPECIFIED HEREIN.

## 8.9 RELEASES

In resolution of the Parties rights, and in further consideration of this Agreement, each Party releases, acquits and discharges the other Party of and from any claim, debt, demand, liability, action or cause of action arising from or relating to the payment of money for the transport and termination of traffic prior to the Effective Date of this Agreement.

## 9.0 Confidentiality and Proprietary Information

9.1 For the purposes of this Agreement, Confidential Information ("Confidential Information") means confidential or proprietary technical or business information given by one Party (the "Discloser") to the other (the "Recipient"). All information which is disclosed by one Party to the other in connection with this Agreement, during negotiations and the term of this Agreement will not be deemed Confidential Information to the Discloser and subject to this Section 9, unless the confidentiality of the information is confirmed in writing by

the Discloser prior to disclosure. The Recipient agrees (i) to use Confidential Information only for the purpose of performing under this Agreement, (ii) to hold it in confidence and disclose it to no one other than its employees having a need to know for the purpose of performing under this Agreement, and (iii) to safeguard it from unauthorized use or disclosure using at least the same degree of care with which the Recipient safeguards its own Confidential Information. If the Recipient wishes to disclose the Discloser's Confidential Information to a third-party agent or consultant, such disclosure must be agreed to in writing by the Discloser, and the agent or consultant must have executed a written agreement of nondisclosures and nonuse comparable in scope to the terms of this section.

- 9.2 The Recipient may make copies of Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies will be subject to the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained on the original.
- 9.3 The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information if directed to do so by Discloser except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement; the Recipient shall certify destruction by written letter to the Discloser. If either Party loses or makes an unauthorized disclosure of the Party's Confidential Information, it will notify such other Party immediately and use its best efforts to retrieve the lost or wrongfully disclosed information.
- 9.4 The Recipient shall have no obligation to safeguard Confidential Information: (i) which was in the possession of the Recipient free of restriction prior to its receipt from the Discloser; (ii) after it becomes publicly known or available through no breach of this Agreement by the Recipient; (iii) after it is rightfully acquired by the Recipient free of restrictions on its discloser; (iv) after it is independently developed by personnel of the Recipient to whom the Discloser's Confidential Information had not been previously disclosed. In addition, either Party will have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, or a court in the conduct of any mediation, arbitration or approval of this Agreement, as long as, in the absence of an applicable protective order, the Discloser has been previously notified by the Recipient in time sufficient for the Recipient to undertake all lawful measures to avoid disclosing such confidential information and for Discloser to have reasonable time to seek or negotiate a protective order before or with any applicable mediator, arbitrator, state or regulatory body or a court.
- 9.5 The Parties recognize that an individual End User may simultaneously seek to become or be a Customer of both Parties. Nothing in this Agreement is intended to limit the ability of either Party to use customer specific information lawfully obtained from End Users or sources other than the Discloser.
- 9.6 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.
- 9.7 No license is hereby granted under any patent, trademark, or copyright, nor is any such license implied solely by virtue of the disclosure of any Confidential Information.
- 9.8 Each Party agrees that the Discloser may be irreparably injured by a disclosure in breach of this Agreement by the Recipient or its representatives and the Discloser will be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach or threatened breach of the confidentiality provisions of this

Agreement. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement, but will be in addition to all other remedies available at law or in equity.

#### 10.0 Finality of Disputes

No claims shall be brought for disputes arising from this Agreement more than twenty-four (24) months from the date of occurrence which gives rise to the dispute, or beyond the applicable statute of limitations, whichever is shorter.

#### 11.0 Intervening Law

11.1 The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations, orders or guidelines that subsequently may be prescribed by any federal or state government authority with jurisdiction. To the extent required or permitted by any such subsequently prescribed law, rule, regulation, order or guideline, the Parties agree to negotiate in good faith toward an agreement to modify, in writing, any affected term or condition of this Agreement to bring them into compliance with such law, rule, regulation, order or guideline. Upon failure to reach agreement to implement a change in laws, rules, regulations, orders or guidelines, either Party may seek arbitration before any regulatory authority with jurisdiction.

11.2 Each Party shall comply with all federal, state, and local laws, rules and regulations applicable to its performance under this Agreement.

#### 13.0 Miscellaneous Provisions

13.1 Effective Date – The effective date of this agreement is January 1, 2003. The Parties shall implement the agreement immediately, work cooperatively, and take all steps necessary and proper to expeditiously prosecute a joint application before the Commission seeking approval of this Agreement pursuant to the provisions of 47 U.S.C. ' 252. Each Party shall be responsible for its own costs and expenses incurred in obtaining approval of this Agreement from the Commission.

#### 14.2 Term and Termination

14.2.1 This Agreement shall remain in effect for three (3) years after January 1, 2003. Thereafter, the Agreement shall automatically renew for additional one (1) year terms, unless either Party gives the other Party written notice of intent to terminate at least sixty (60) days prior to the expiration date of the initial or renewed term.

14.2.2 Upon termination or expiration of this agreement in accordance with the above Section:

- (a) Each Party shall continue to comply with its obligations set forth in Section Confidentiality and
- (b) Each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement; and upon termination or expiration of this Agreement, each Party shall promptly pay all amounts (including



any late payment charges) owed under this Agreement or place disputed amounts into an escrow account.

(c) Each Party's indemnification obligations shall survive.

14.2.3 Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party, provided however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) days of receipt of written notice thereof.

14.3 Binding Effect - This Agreement will be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

14.4 Assignment - Neither Party may assign, subcontract, or otherwise transfer its rights or obligations under this Agreement except under such terms and conditions as are mutually acceptable to the other Party and with such Party's prior written consent, which consent shall not be unreasonably withheld, delayed, or conditioned; provided, that either Party may assign its rights and delegate its benefits, and delegate its duties and obligations under this Agreement without the consent of the other Party to a parent, one hundred (100) per cent owned affiliate or subsidiary of that Party for the continued provisioning of the telecommunications service under this Agreement.

14.5 Third Party Beneficiaries - This Agreement shall not provide any non-party with any remedy, claim, cause of action or other right.

14.6 Force Majeure - Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable commercial efforts to avoid or remove the cause of non-performance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

14.7 DISCLAIMER OF WARRANTIES - THE PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO SERVICES OR FACILITIES PROVIDED HEREUNDER. ADDITIONALLY, NEITHER PARTY ASSUMES ANY RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY THE OTHER PARTY WHEN THIS DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

14.8 Survival of Obligations - Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, Confidential Information, limitations on liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive

(or to be performed after) termination of this Agreement, will survive cancellation or termination thereof.

14.9 Waiver - The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed as a general waiver or relinquishment of the terms and conditions, but this Agreement shall be and remain at all times in full force and effect.

#### 14.10 Patents, Trademarks and Trade Names

14.10.1 With respect to claims of patent infringement made by third persons, the Parties shall defend, indemnify, protect and save harmless the other from and against all claims arising out of the improper combining with or use by the indemnifying Party of any circuit, apparatus, system or method provided by that Party or its subscribers in connection with the Interconnection arrangements furnished under this Agreement.

14.10.2 No license under patents is granted by either Party to the other, or shall be implied or arise by estoppel with respect to any circuit, apparatus, system, or method used by either Party in connection with any Interconnection Arrangements or services furnished under this Agreement.

14.10.3 Nothing in this Agreement will grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever, absent prior written consent of the other Party.

#### 14.11 Relationship of the Parties

14.11.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder.

14.11.2 Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party.

14.11.3 Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

14.11.4 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state

unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

- 14.11.5 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party.
- 14.12 Services - Each Party is solely responsible for the services it provides to its End Users and to other Telecommunications Carriers.
- 14.13 Notices - Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally; on the date receipt is acknowledged in writing by the recipient if delivered by regular mail; or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile, which shall be effective on the next Business Day following the date of transmission as reflected in the facsimile confirmation sheet. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section.

For Western Wireless:      Regulatory Department  
   cc Engineering Department  
   3650 131<sup>st</sup> Avenue S.E.  
   Bellevue, Washington 98006  
   425-586-8700 (phone)  
   425-586-8118 (facsimile)

For Telephone Company:    Interstate Telecommunications Cooperative, Inc.  
   Jerry Heiberger  
   PO Box 920  
   Clear Lake, SD 57226  
   605-874-2181 (phone)  
   605-874-2014 (facsimile)

- 14.14 Expenses - Except as specifically set out in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.
- 14.15 Headings - The headings in this Agreement are inserted for convenience and identification only and will not be considered in the interpretation of this Agreement.
- 14.16 Governing Law – For all claims under this Agreement, that are based upon issues within the jurisdiction of the FCC or governed by federal law, the Parties agree that the

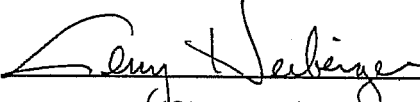
remedies for such claims shall be governed by the FCC and the Act. For all claims under this agreement that are based upon issues within the jurisdiction of the Commission or governed by state law, the Parties agree that the jurisdiction for all such claims shall be with such Commission, and the remedy for such claims shall be as provided for by such Commission. In all other respects, this Agreement shall be governed by the domestic laws of the State of South Dakota without reference to conflict of law provisions.

- 14.17 Multiple Counterparts - This Agreement may be executed in multiple counterparts, each of which will be deemed an original but all of which will together constitute but one and the same document.
- 14.18 Complete Terms - This Agreement together with its appendices and exhibits constitutes the entire agreement regarding the exchange and compensation for Local Traffic between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof. Appendices and exhibits referred to herein are deemed attached hereto and incorporated by reference. Neither Party shall be bound by any amendment, modification or additional terms unless it is reduced to writing signed by an authorized representative of the Party sought to be bound.
- 14.19 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.
- 14.20 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties.
- 14.21 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives.

The Telephone Company

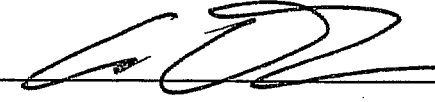
The CMRS Provider

BY:   
(Signature)

NAME: JERRY HEIBERGER  
(Printed)

TITLE: GENERAL MANAGER

DATE: 12-19-03

BY:   
(Signature)

NAME: Gene DeJordy  
(Printed)

TITLE: VP

DATE: 2-18-04

#### APPENDIX A

##### 1.0 MOBILE TO LAND INTERCONNECTION RATES PER MINUTE OF USE

TYPE 2A  
\$.007

TYPE 1  
\$.007

TYPE 2B  
\$.007

##### 2.0 LAND TO MOBILE INTERCONNECTION RATES PER MINUTE OF USE

TYPE 2A  
\$.007

TYPE 1  
\$.007

TYPE 2B  
\$.007

##### 3.0 RECIPROCAL COMPENSATION FOR TRANSPORT AND TERMINATION OF TRAFFIC EXCHANGED THROUGH AN INDIRECT INTERCONNECTION

\$.007

#### 4.0 RECIPROCAL COMPENSATION CREDIT FORMULA

The reciprocal compensation credit will be calculated assuming a ratio of land originated to mobile originated traffic as set forth below. Divide the total number of monthly measured minutes of use terminated on Telephone Company's network by the Mobile to Land Factor. The total calculation will then be multiplied by the Land to Mobile Factor to arrive at the total Telephone Company minutes of use terminated on CMRS Provider's network per month. This monthly total will be multiplied by the Land to Mobile Interconnection rate set forth in Appendix A 2.0 to obtain the Reciprocal Compensation Credit for the month. For example, Telephone Company determines that 10,000 minutes of mobile originated Telecommunications Traffic has been delivered to it by the CMRS Provider in a given billing period: In Year 1 of the Agreement, the Parties will assume that 2,658 minutes of land originated calls were delivered by Telephone Company to CMRS Provider for termination (10,000/.79 multiplied by .21).

The Reciprocal Compensation Credit Factors over the term of the agreement shall be:

	Year 1	Year 2	Year 3
Mobile to Land	79%	78%	77%
Land to Mobile	21%	22%	23%

#### 5.0 FACILITY RATE

To the extent CMRS Provider requires facilities referenced in 3.1, such facilities will be made available and the price will be based upon the lowest Telephone Company interstate or intrastate rate published in the Telephone Company's tariff or pricing catalog.

#### 6.0 SHARED FACILITY FACTOR

The default Shared Facility Factor over the term of the agreement shall be:

	Year 1	Year 2	Year 3
CMRS Provider	79%	78%	77%
Telephone Company	21%	22%	23%

# APPENDIX B

## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

### EXISTING DIRECT INTERCONNECTION

POI Type	NPA	NXX	Range	Qty	Rate Center	GLLI	Land to Mobile Local Calling Area by Rate Center
Type 2	605	233	0000 – 9999	10,000	Clark		Bradley All Interstate <sup>3</sup>
Type 2	605	265	0000 – 9999	10,000	Webster		Waubay All Interstate <sup>3</sup> Roslyn** Pierpoint** Bristol**
Type 2	605	690	0000 – 9999	10,000	Brookings	BKNGSDCACM6 BKNGSDXBDS0	All Interstate <sup>3</sup> Brookings** Sinai Volga

# APPENDIX B

## INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

### INTERCONNECTION AND LOCAL CALLING DATA

Exchange Name	NPANXX(s)	CLLI <sup>1</sup>	Hosts, Intermediate Offices, or Tandem(s) <sup>2</sup>	Land to Mobile Local Calling Area by Rate Center
Brookings Rural	605-693	BKNGSDXBDS0	BKNGSDXB1GT	All Interstate <sup>3</sup> Brookings** Sinai Volga
Clark	605-532	CLRKSDXADS0	CLLKSDXA1GT	Bradley All Interstate <sup>3</sup>
Clear Lake	605-874	CLLKSDXADS0	CLLKSDXA1GT	Brandt Gary Goodwin All Interstate <sup>3</sup>
Estelline	605-873	ESTLSDXADS0	CLLKSDXA1GT	Toronto All Interstate <sup>3</sup>
Gary	605-272 507-277	GARYSDXADS0	CLLKSDXA1GT	Clear Lake All Interstate <sup>3</sup>
Webster	605-345	WBSTSDXADS0	CLLKSDXA1GT	Waubay All Interstate <sup>3</sup> Roslyn** Pierpoint** Bristol**
Astoria	605-832	ASTRSDXARS1	CLLKSDXA1GT	Hendricks, MN All Interstate <sup>3</sup>
Bradley	605-784	BRDLSDXARS1	CLLKSDXA1GT	Clark All Interstate <sup>3</sup>
Brandt	605-876	BRNTSDXARS2	CLLKSDXA1GT	All Interstate <sup>3</sup>
Bryant	605-628	BRYNSD01RS0	CLLKSDXA1GT	All Interstate <sup>3</sup> Hayti Willow Lake Lake Norden Florence Watertown
Castlewood	605-793	CSWDSDXARS1	CLLKSDXA1GT	All Interstate <sup>3</sup> Watertown
Chester	605-489	CHESSDXARS1	BKNGSDXB1GT	All Interstate <sup>3</sup> Wentworth Nunda Madison
Elkton	605-542 605-548	EKTNSDXARS3	CLLKSDXA1GT	All Interstate <sup>3</sup> Lake Benton, MN
Florence	605-578	FLRNSDXARS1	CLLKSDXA1GT	All Interstate <sup>3</sup> Hayti Willow Lake Lake Norden






				Bryant Watertown
Goodwin	605-795	GDWNSDXARS 4	CLLKSDXA1GT	Clear Lake All Interstate <sup>3</sup>
Hayti	605-783	HAYTSDXARS1	CLLKSDXA1GT	All Interstate <sup>3</sup> Florence Willow Lake Lake Norden Bryant Watertown
Lake Norden	605-785	LKNRSD01RS0	CLLKSDXA1GT	All Interstate <sup>3</sup> Florence Willow Lake Hayti Bryant Watertown
Nunda	605-586	NUNDSDXARS2	BKNGSDXB1GT	All Interstate <sup>3</sup> Wentworth Chester Madison
Sinai	605-826	SINASDXARS3	BKNGSDXB1GT	All Interstate <sup>3</sup> Brookings** Volga
Toronto	605-794	TOROSDXARS5	CLLKSDXA1GT	Estelline White All Interstate <sup>3</sup>
Waubay	605-947	WABYSDXARS1	CLLKSDXA1GT	Webster All Interstate <sup>3</sup>
Wentworth	605-483	WNWOSDXARS 4	BKNGSDXB1GT	All Interstate <sup>3</sup> Nunda Chester Madison
White	605-629	WHITESDXARS6	CLLKSDXA1GT	Toronto All Interstate <sup>3</sup>
Willow Lake	605-625	WLLKSDXARS6	CLRKSDXADS0	All Interstate <sup>3</sup> Florence Lake Norden Hayti Bryant Watertown
Qwest Meet Point			V6131 H4986 V6044 – H6047	
SDN Meet Point			V6280 H4906	

<sup>1</sup> Switch or meet point locations where Type 2B interconnection is available

<sup>2</sup> Switch or meet point locations where Type 2A interconnection is available

<sup>3</sup> Local calling for those Interstate Customers that have subscribed to Interstate Optional EAS

\*\* Intercompany EAS which may be subject to a separate transiting service agreement

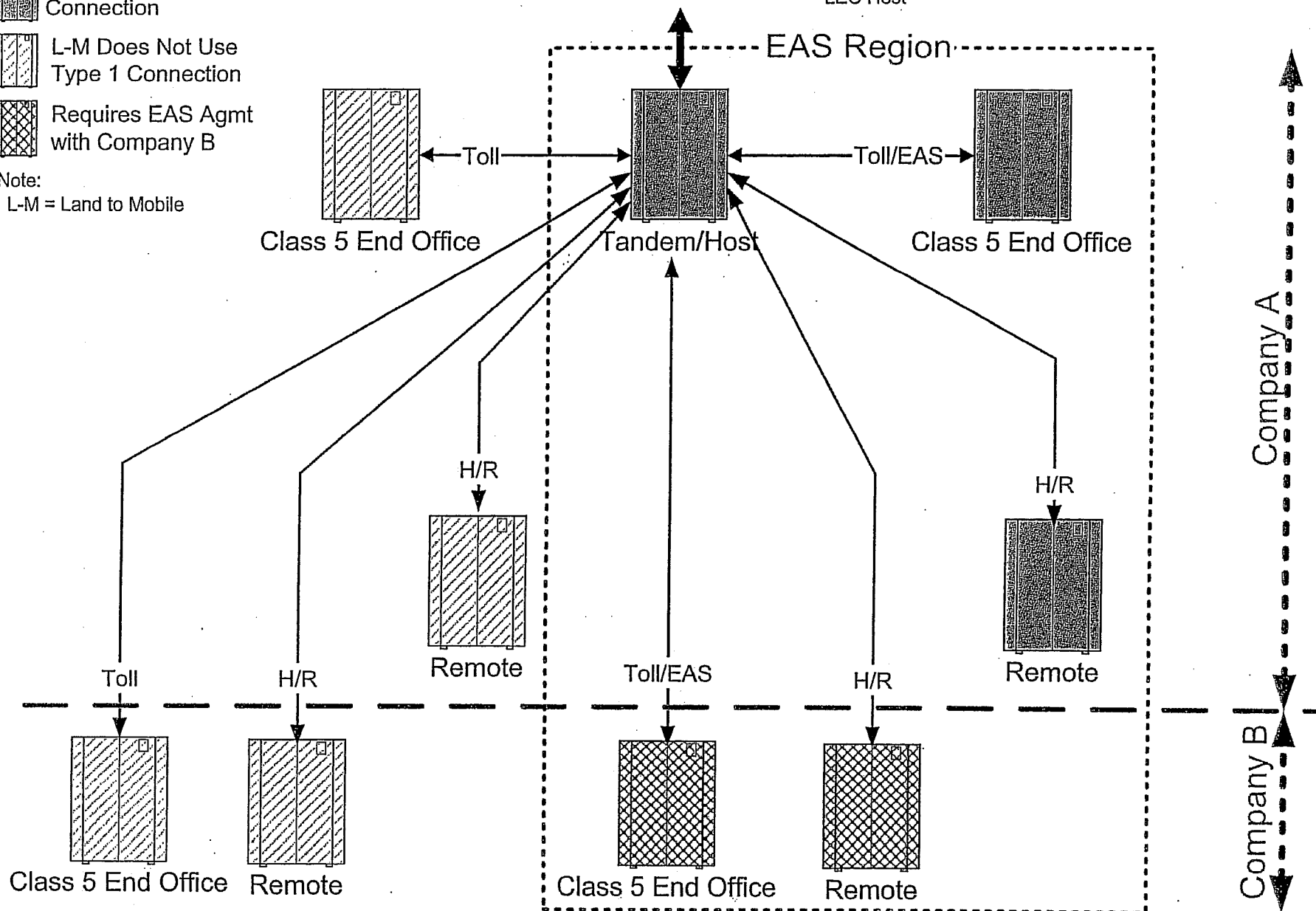
-  L-M Uses Type 1 Connection
-  L-M Does Not Use Type 1 Connection
-  Requires EAS Agmt with Company B

Note:  
L-M = Land to Mobile

Wireless - NPA-NXX  
number block from  
LEC Host

Type 1

EAS Region





L-M Uses 2A  
Connection



L-M Does Not Use  
2A Connection



Requires EAS Agmt  
with Company B

Note:  
L-M = Land to Mobile

Type 2A

Wireless - NPA-NXX  
has same rate center  
as LEC host

EAS Region

Toll

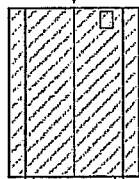
Toll/EAS

Class 5 End Office

Tandem/Host

Class 5 End Office

H/R



Remote

Toll/EAS

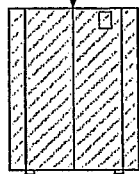
H/R



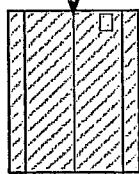
Remote

Toll

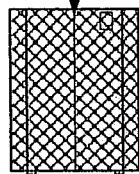
H/R



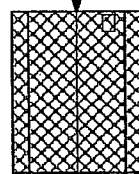
Class 5 End Office



Remote






Class 5 End Office



Remote

Company A

Company B

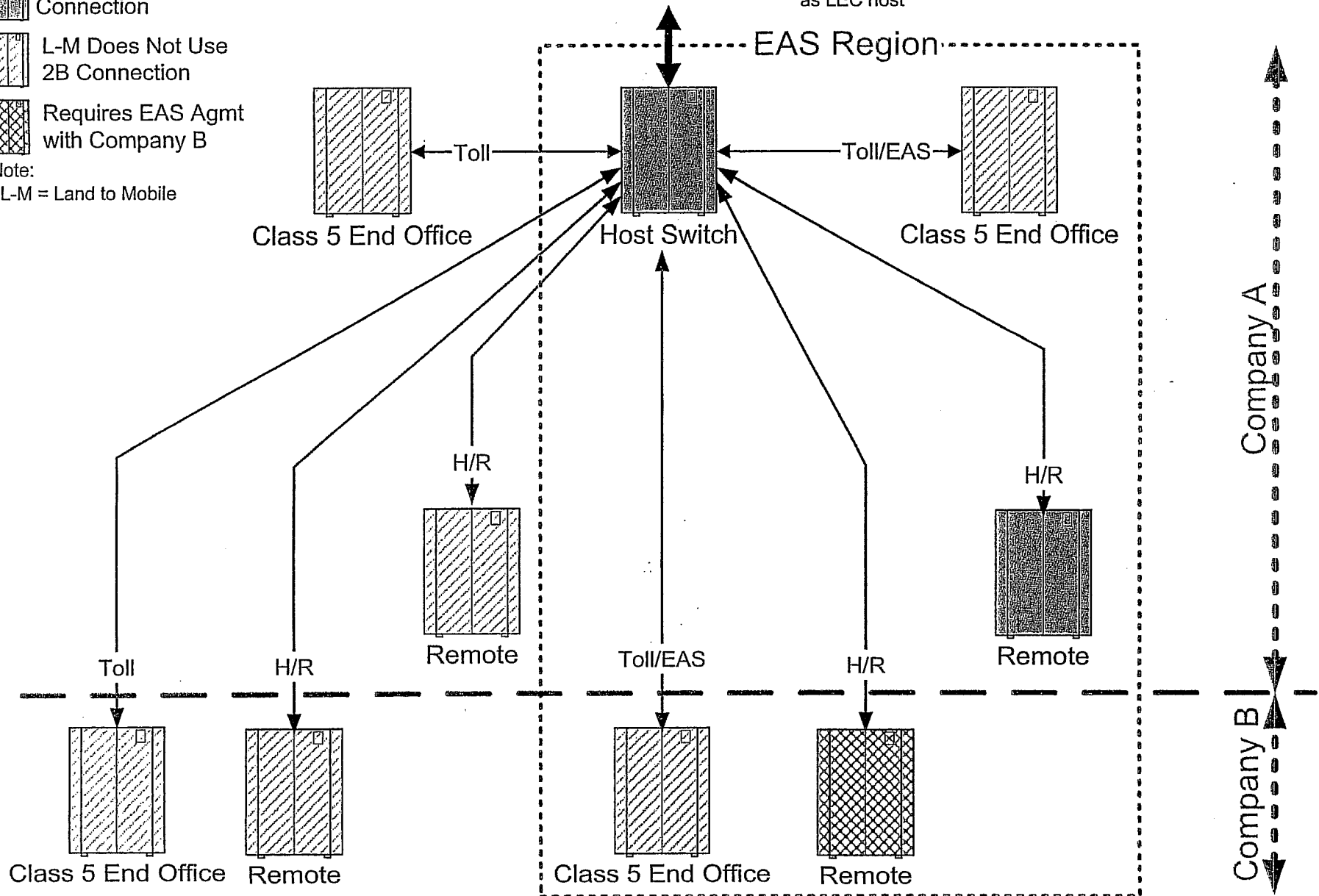
-  L-M Uses 2B Connection
-  L-M Does Not Use 2B Connection
-  Requires EAS Agmt with Company B

Note:  
L-M = Land to Mobile

Type 2B

Wireless - NPA-NXX  
has same rate center  
as LEC host

EAS Region



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

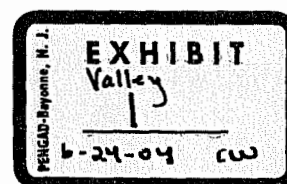
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IN THE MATTER OF THE PETITION  
OF VALLEY TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION, INC.  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-050

DIRECT PRE-FILED TESTIMONY OF  
STEVE OLESON

May 14, 2004



**Q: Please state your business name and address?**

A: My name is Steve Oleson of Valley Telecommunications Cooperative Association, Inc. Our address is PO Box 7, Herreid, South Dakota 57632. Our telephone number is 605-437-2615.

**Q: By whom are you employed and in what capacity?**

A: I am the General Manager of Valley Telecommunications Cooperative Association, Inc. Valley Telecommunications is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications services to 3,576 access lines within its South Dakota service area, which include the exchanges of Herreid, Pollock, Mound City, Glenham, Eureka, Hosmer, Leola, Long Lake & Ipswich. Our Life line customers per exchange are as follows: Herreid - 19; Pollock - 11; Mound City - 8; Glenham - 3; Eureka - 38; Hosmer - 13; Leola - 14; Long Lake - 5; and Ipswich - 19.

**Q: Does your company have any direct points of interconnection with any wireless carrier and/or does your company provide any blocks of numbers for your company's rate centers to any wireless carrier?**

A: No.

**Q: How do the local calling areas of your exchanges compare with those of the wireless carriers operating in your area?**

A: Wireless service areas are much more extensive.

**Q: Does your company provide any Extended Area Service (EAS) plans to its subscribers or to a connecting carrier's subscribers?**

A: Yes.

**Q: What is the current method of routing calls from your subscriber's landline phones to wireless phone numbers?**

A: The calls must go through our toll circuits to SDN no different than any other toll call.

**Q: What is the number of wireless carriers authorized to serve in your company's service area?**

A: There are two, Verizon and Western Wireless

**Q: Have any subscribers requested local number portability (LNP) from your company?**

A: To my knowledge, we have received only one inquiry about LNP from a subscriber.

**Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever requested LNP from your company?**

A: No.

**Q: Have any wireless carriers requested LNP?**

A: Yes, Western Wireless.

**Q: Are there any existing capital investments for broadband that will be diverted if your company must deploy LNP?**

A: Valley is currently working to deploy video over DSL and is researching the possibility of VoIP for future services. This may be at risk.

**Q. How much time would be required for your company to provide LNP, if ordered by the Commission?**

A: We have not completed a specific implementation time line yet, but implementation will take a considerable amount of time.

**Q: In your experience as the general manager of Valley Telecommunications have you seen increases or additions to the itemized fees on your customer's telephone bills?**

A. Yes.

**Q: What do you expect your customer's reaction to be to any new LNP fees on their bills?**

A. I would expect the reaction to be very negative. The majority of Valley's subscribers are elderly and are on fixed income. Adding additional fees would be a hardship and these subscribers may have to go without all telecommunications services.

**Q: Do you expect that the costs of implementing LNP could create the necessity of a rate increase for your company?**

A. Depending on what costs are recoverable in any LNP end user fees, if the remainder is significant, Valley will not be able to absorb them and may have to implement a dial tone rate increase to recover any deployment costs.

**Q: Is the public interest, convenience, and necessity served by requiring your company to implement LNP at this time?**

A: No. The current demand for LNP appears to be very minimal because to the best of our knowledge, only one customer has inquired about LNP. Also, the cost of LNP is significant.

**Q: Does this conclude your direct testimony?**

A: Yes.



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF VALLEY TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION, INC.  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-050  
  
REBUTTAL TESTIMONY OF  
  
STEVE OLESON

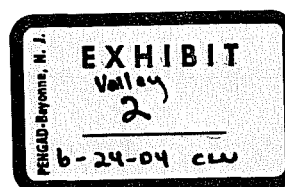
REBUTTAL TESTIMONY OF

STEVE OLESON

ON BEHALF OF

VALLEY TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, INC.

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. **My name is Steve Oleson. I am the General Manager of Valley Telecommunications**  
3 **Cooperative Association, Inc. ("Valley"), whose address is 102 Main Street South,**  
4 **Herreid, South Dakota 57632.**

5 Q. What is the purpose of your testimony?

6 A. **I will provide rebuttal testimony to various statements made by Ron Williams in his**  
7 **testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-**  
8 **less).**

9 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
10 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
11 their legal obligations." How do you respond?

12 A. **I dispute Mr. Williams' characterization of events as baseless and inflammatory.**  
13 **Once the FCC made it clear that wireline carriers would be required to port num-**  
14 **bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Valley**  
15 **took immediate steps to investigate the cost and the processes involved with LNP**  
16 **and to explore its legal options. Because Valley had no experience with LNP, it took**  
17 **time to gather the pertinent information and to make the decision to seek a suspen-**  
18 **sion of the requirement from the Commission. Further, the suspension petition it-**  
19 **self took time and effort to prepare because Valley wanted to present as complete a**  
20 **petition as possible, accompanied by cost information as complete as possible.**

21 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
22 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
23 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
24 cal calls?"

1     **A.     In its answer to Interrogatory 4., Western Wireless identifies the “serving tandem”**  
2     **as the Qwest LATA or local tandem, which is outside of Valley’s service territory.**  
3     **(See Western Wireless Response to Interrogatory 4., attached to the Rebuttal Tes-**  
4     **timony of Steven E. Watkins). Mr. Williams’ statement is not consistent with the in-**  
5     **terconnection agreement signed by Valley and Western Wireless. Pursuant to that**  
6     **agreement, Valley did not agree to route traffic destined for Western Wireless to the**  
7     **serving tandem. Rather, traffic terminating to Western Wireless is routed to an in-**  
8     **terexchange carrier. Therefore, it appears that Western Wireless’ argument really**  
9     **is a bad faith attempt to change the agreement between the parties.**

10    **Q.     At page 19, lines 8-10, Mr. Williams states that it is his belief that “the FCC views that it**  
11    **is the originating carrier’s responsibility to deliver local traffic for termination and that**  
12    **the costs associated with fulfilling that responsibility are not a number portability cost.”**  
13    **What is your response to this statement?**

14    **A.     Mr. Williams’ statements are inconsistent and should be rejected. First he argues**  
15    **that Valley should be required to install new facilities to deliver ported calls to**  
16    **Western Wireless and then he argues that the cost of those facilities are not number**  
17    **portability costs. Further, as discussed at lines 1-9 above, Mr. Williams’ suggestion**  
18    **that it is Valley’s responsibility to deliver traffic destined to Western Wireless**  
19    **through a serving tandem is not consistent with the interconnection agreement be-**  
20    **tween Valley and Western Wireless.**

21    **Q.     At page 20, lines 13-16, Mr. Williams states that “[t]he routing methods proposed by the**  
22    **Petitioners are inefficient in that they make little or no utilization of existing equipment**  
23    **and shared facilities currently used to exchange calls with other carriers.” How do you**  
24    **respond?**

1 A. The routing methods reflected in the cost exhibit attached to Valley's Petition are  
2 based on the current routing arrangements that Valley has in place with other car-  
3 riers, namely, calls that are dialed on a local 7-digit basis are routed via direct con-  
4 nections. Therefore, if calls to numbers ported to a carrier are to be dialed on a lo-  
5 cal 7-digit basis, a direct connection needs to be established between the carriers.

6 Q. Would Western Wireless' routing proposal have impacts to Valley beyond LNP?

7 A. Yes. It is my understanding that Western Wireless' proposal would increase Val-  
8 ley's costs. First, Western Wireless' proposal would require Valley to pay for new  
9 facilities to the tandem provider that it does not need for any purpose other than to  
10 route calls to ported numbers to wireless carriers. Second, Valley would most likely  
11 have to pay transit traffic charges to the tandem provider for transporting the traf-  
12 fic to the wireless carriers. Third, in response to Interrogatory 16.b., Western Wire-  
13 less indicates that Valley would be required to pay reciprocal compensation on calls  
14 to ported numbers, even if Valley does not pay compensation on such calls today.  
15 (See Western Wireless Response to Interrogatory 16.b. attached to the Rebuttal Tes-  
16 timony of Steven E. Watkins.)

17 Q. Is there any other impact?

18 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
19 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
20 wireless carriers are routed to interexchange carriers. For example, if Valley Cus-  
21 tomer A calls Western Wireless Customer B, Valley Customer A incurs a toll  
22 charge. However, under Western Wireless' proposal, it is my understanding that if  
23 Valley Customer A calls Western Wireless Customer B, who now has a number  
24 ported from Valley, Valley Customer A would be charged for a local call. Custom-  
25 ers may be encouraged to "give up" their existing wireless numbers and obtain

1        wireline numbers for the sole purpose of porting that number to avoid toll charges.  
2        This is not only a bad public policy result, but also simply a bad faith attempt to  
3        avoid an important contract provision upon which Western Wireless has already  
4        agreed with our company.

5    Q.    Does this conclude your rebuttal testimony?

6    A.    Yes.

CERTIFICATE OF SERVICE

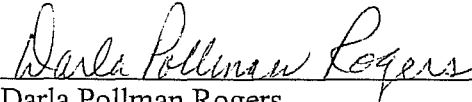
The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
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Talbot J. Wieczorek  
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P. O. Box 8045  
Rapid City, South Dakota 57709-8045

David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
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Pierre, South Dakota 57501  
Telephone (605) 224-7889

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

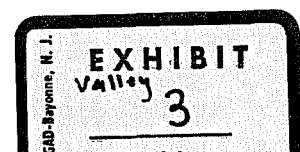
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IN THE MATTER OF THE PETITION  
OF VALLEY TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION, INC.  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-050

**DIRECT PRE-FILED TESTIMONY OF  
TOM BULLOCK ON BEHALF OF VALLEY TELECOMMUNICATIONS  
COOPERATIVE REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



1  
2 **DIRECT TESTIMONY OF TOM BULLOCK**  
3 **REGARDING COMPANY-SPECIFIC COST DATA**  
4

5 **Q1. Please State your name, Employer, Business Address and Telephone Num-**  
6 **ber.**

7  
8 A. My name is Tom Bullock. I am employed with TELEC Consulting Resources  
9 Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska,  
10 68508. My telephone number is (402) 441-4315.

11 **Q2. On whose behalf are you testifying?**

12  
13 A. I am testifying on behalf of the Company identified in the caption of the docket  
14 set out above. I will refer to this Company as the "RLEC".

15 **Q3. Have you provided your background information and an explanation of your**  
16 **role in this Docket in the "companion" testimony that has been offered in this**  
17 **Docket?**

18 A. Yes, I have.

19 **Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

20 A. Yes, in conjunction with members of the professional staff of TELEC, I was re-  
21 sponsible for the preparation of Exhibit 1 as was attached to the Petition and I was  
22 also responsible for the preparation of supporting information prepared in connec-  
23 tion with the responses to the discovery requests of Western Wireless. I was also  
24 responsible for the preparation of Exhibit 2 that is attached to this testimony.

25 **Q5. In your "introductory" testimony you have explained the line items that**  
26 **comprise Exhibit 2 and the process used to compile the data that was used to**  
27 **develop the cost as shown on Exhibit 2. Please discuss where in your "intro-**  
28 **ductory" testimony you describe this process.**



1 A. The process that was used to compile and develop the cost per line in Exhibit 2 is  
2 described on pages six through twenty-one in my "introductory" testimony.

3 **Q6. What was the source of the data?**

4 A. The data was derived from the books, financial records and managers of the  
5 RLEC. Data was also obtained from switch vendors, engineering consultants, tar-  
6 iffs, service order administration service bureaus, the number portability admini-  
7 stration center, a number portability database provider, and my professional ex-  
8 perience.

9 **Q7. What was the purpose of obtaining that particular data?**

10 A. To assist me in preparing an estimate of the costs to implement LNP for the  
11 RLEC.

12 **Q8. Is this the type of data that experts in your field would ordinarily review in**  
13 **formulating an opinion concerning the costs of LNP?**

14 A. Yes.

15 **Q9. What use did you make of the data after you received it from the RLEC?**

16 A. I have explained the use of the data on pages eleven through twenty-one of my  
17 "introductory" testimony.

18 **Q10. Have you reached an opinion with a reasonable degree of professional cer-**  
19 **tainty as to the total non-recurring costs, excluding transport, to implement**  
20 **LNP that you have calculated for the RLEC that will be recovered over a 5-**  
21 **year recovery period through an end user surcharge?**

22 A. Yes. My opinion is that the total non-recurring costs, excluding transport, is  
23 \$64,535. Such costs were amortized over a recovery period of 60 months using a

rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$1,411.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$797 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. Surcharges and taxes were then applied to this quotient. The resulting cost per line per month was calculated to be \$0.71.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$8,664 per month. The resulting LNP cost per line, per month, including transport, surcharges and taxes, was calculated to be \$2.80.

1   **Q14. If FCC determines that transport costs should not be included in the end-**  
2       **user surcharge, will the transport cost still be incurred and who will pay**  
3       **these costs?**

4   A.   Transport costs will have to be incurred to transport calls outside of the RLEC's  
5       service area. If the cost is not recovered through an end-user surcharge, and if  
6       these costs are not recovered from the wireless carrier, then the only party to pay  
7       these costs would be the RLEC.

8   **Q15. Is it your opinion that the calculations that you have just described fairly and**  
9       **reasonably describe the non-recurring and recurring costs for the RLEC to**  
10      **implement LNP and the end user charges to recover such costs?**

11   A.   Yes.

12   **Q16. Does this conclude your testimony?**

13   A.   Yes, it does.

14

15

**Valley Telecommunications Cooperative Association, Inc.**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 21,216
Internal Business Procedure Changes	\$ 15,455
Intercarrier Testing	\$ 3,216
Other Internal Costs	\$ 22,479
LNP Query set up	\$ 190
SOA Non-recurring set up charge	\$ -
Customer Notification Costs	\$ 1,978
Total Non-recurring Costs excluding transport	<u>\$ 64,535</u>

Non recurring transport charges	\$ 1,401
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Total Non-recurring Costs including transport	<u>\$ 65,935</u>
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 225
LNP Query Costs per month	\$ 150
Switch Maintenance Costs per month	\$ -
Other Monthly Costs	\$ 422
Total Recurring Monthly Costs excluding Transport	<u>\$ 797</u>

Transport	\$ 6,425
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Total Recurring Monthly Costs including Transport	<u>\$ 7,222</u>
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 1,411
Total Nonrecurring cost per month including transport amortized over five years	\$ 1,442

Total cost per month excluding transport	\$ 2,208
Total cost per month including transport	\$ 8,664

Access Lines excluding Lifeline	3,461
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LNP cost per line per month excluding transport	\$ 0.64	\$ 0.71
LNP cost per line per month including transport	\$ 2.50	\$ 2.80

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF CITY OF FAITH TELEPHONE  
COMPANY FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-051

**DIRECT PRE-FILED TESTIMONY OF**  
**SHANE AYRES**

May 14, 2004



1    **Q: Please state your business name and address?**

2    A: My name is Shane Ayres of City of Faith d/b/a Faith Municipal Telephone  
3        Company, P.O Box 368, Faith, SD 57626. (Business Number: 605-967-2261)

4    **Q: By whom are you employed and in what capacity?**

5    A: I am the Finance Officer of the City of Faith d/b/a Faith Municipal Telephone  
6        Company (Faith). Faith is a rural independent local exchange carrier that provides  
7        local exchange, exchange access and other telecommunications services to 400  
8        access lines within its South Dakota service area, Faith exchange only. We service  
9        8 lifeline customers.

10   **Q: Does your company have any direct points of interconnection with any wireless  
11        carrier and/or does your company provide any blocks of numbers for your  
12        company's rate centers to any wireless carrier?**

13   A: No.

14   **Q: How do the local calling areas of your exchanges compare with those of the  
15        wireless carriers operating in your area?**

16   A: Wireless service areas are much more extensive.

17   **Q: What is the current method of routing calls from your subscriber's landline  
18        phones to wireless phone numbers?**

19   A: Faith has points of interconnection (POI) with SDN and Quest. The SDN  
20        connection is for toll completion and toll termination for InterLATA and Intra  
21        LATA traffic. The Qwest POI is a terminating trunk, only for Qwest IntraLATA  
22        traffic.

1 **Q: Have any subscribers requested local number portability (LNP) from your**  
2 **company?**

3 A: To the best of my knowledge, no subscribers have requested LNP.

4 **Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever**  
5 **requested LNP from your company?**

6 A: No.

7 **Q: Have any wireless carriers requested LNP?**

8 A: Yes.

9 **Q. How much time would be required for your company to provide LNP, if**  
10 **ordered by the Commission?**

11 A: We have not completed a specific implementation time line yet, but implementation  
12 will take a considerable amount of time.

13 **Q: In your experience as the Finance Officer of the City of Faith, have you seen**  
14 **increases or additions to the itemized fees on your customer's telephone bills?**

15 A: Yes.

16 **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
17 **their bills?**

18 A: I would expect the reaction to be very negative.

19 **Q: Is the public interest, convenience, and necessity served by requiring your**  
20 **company to implement LNP at this time?**

21 A: No. The current demand for LNP appears to be non-existent, as no customers have  
22 requested LNP and the cost of LNP is significant.

23 **Q: Does this conclude your direct testimony?**

1 A: Yes



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF CITY OF FAITH TELEPHONE  
COMPANY FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-051  
REBUTTAL TESTIMONY OF  
SHANE AYRES

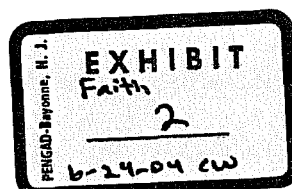
REBUTTAL TESTIMONY OF

SHANE AYRES

ON BEHALF OF

CITY OF FAITH TELEPHONE COMPANY

June 15, 2004



1 Q. Please state your name, business name and address.

2 A. **My name is Shane Ayres. I am the General Manager of City of Faith Telephone**  
3 **Company ("Faith"), whose address is 206 Main Street, Faith, South Dakota 57626.**

4 Q. What is the purpose of your testimony?

5 A. **I will provide rebuttal testimony to various statements made by Ron Williams in his**  
6 **testimony filed on May 28, 2004 on behalf of WWC License L.L.C. (Western Wire-**  
7 **less).**

8 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
9 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
10 their legal obligations." How do you respond?

11 A. **I dispute Mr. Williams' characterization of events as baseless and inflammatory.**  
12 **Once the FCC made it clear that wireline carriers would be required to port num-**  
13 **bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Faith**  
14 **took immediate steps to investigate the cost and the processes involved with LNP**  
15 **and to explore its legal options. Because Faith had no experience with LNP, it took**  
16 **time to gather the pertinent information and to make the decision to seek a suspen-**  
17 **sion of the requirement from the Commission. Further, the suspension petition it-**  
18 **self took time and effort to prepare because Faith wanted to present as complete a**  
19 **petition as possible, accompanied by cost information as complete as possible.**

20 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
21 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
22 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
23 cal calls?"

24 A. **I believe that Mr. Williams' statement is not consistent with the interconnection**  
25 **agreement signed by Faith and Western Wireless. Pursuant to that agreement,**

1       **Faith did not agree to route traffic destined for Western Wireless to the serving tan-**  
2       **dem. Rather, traffic terminating to Western Wireless is routed to an interexchange**  
3       **carrier. Therefore, it appears that Western Wireless' argument really is a bad faith**  
4       **attempt to change the agreement between the parties.**

5    Q.    At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it  
6       is the originating carrier's responsibility to deliver local traffic for termination and that  
7       the costs associated with fulfilling that responsibility are not a number portability cost."  
8       What is your response to this statement?

9    A.    **Mr. Williams' statements are inconsistent and should be rejected. First he argues**  
10       **that Faith should be required to install new facilities to deliver ported calls to West-**  
11       **ern Wireless and then he argues that the cost of those facilities are not number**  
12       **portability costs. Further, as discussed at lines 24-25, page 1, and lines 1-4 above,**  
13       **Mr. Williams' suggestion that it is Faith's responsibility to deliver traffic destined to**  
14       **Western Wireless through a serving tandem is not consistent with the interconnec-**  
15       **tion agreement between Faith and Western Wireless.**

16   Q.    At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
17       Petitioners are inefficient in that they make little or no utilization of existing equipment  
18       and shared facilities currently used to exchange calls with other carriers." How do you  
19       respond?

20   A.    **The routing methods reflected in the cost exhibit attached to Faith's Petition are**  
21       **based on the current routing arrangements that Faith has in place with other carri-**  
22       **ers, namely, calls that are dialed on a local 7-digit basis are routed via direct connec-**  
23       **tions. Therefore, if calls to numbers ported to a carrier are to be dialed on a local 7-**  
24       **digit basis, a direct connection needs to be established between the carriers.**

25   Q.    Would Western Wireless' routing proposal have impacts to Faith beyond LNP?

1 A. Yes. It is my understanding that Western Wireless' proposal would increase Faith's  
2 costs. First, Western Wireless' proposal would require Faith to pay for new facili-  
3 ties to the tandem provider that it does not need for any purpose other than to route  
4 calls to ported numbers to wireless carriers. Second, Faith would most likely have  
5 to pay transit traffic charges to the tandem provider for transporting the traffic to  
6 the wireless carriers.

7 Q. Is there any other impact?

8 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
9 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
10 wireless carriers are routed to interexchange carriers. For example, if Faith Cus-  
11 tomer A calls a Western Wireless Customer B, Faith Customer A incurs a toll  
12 charge. However, under Western Wireless' proposal, it is my understanding that if  
13 Faith Customer A calls Customer B who now has a number ported from Faith,  
14 Faith Customer A would be charged for a local call. Customers may be encouraged  
15 to "give up" their existing wireless numbers and obtain wireline numbers for the  
16 sole purpose of porting that number to avoid toll charges. This is not only a bad  
17 public policy result, but also simply a bad faith attempt to avoid an important con-  
18 tract provision upon which Western Wireless has already agreed with our company.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes.

CERTIFICATE OF SERVICE

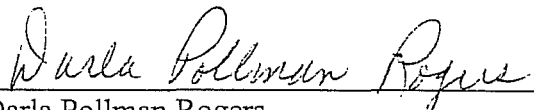
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David A. Gerdes  
MAY, ADAM, GERDES & THOMPSON  
P. O. Box 160  
Pierre, South Dakota 57501

Dated this fifteenth day of June, 2004.

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

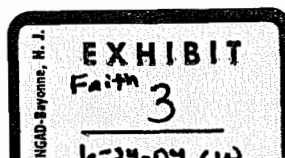
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IN THE MATTER OF THE PETITION  
OF FAITH MUNICIPAL TELEPHONE  
COMPANY FOR SUSPENSION OR  
MODIFICATION OF § 251(b)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS  
AMENDED

Docket No. TC04-051

DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF FAITH MUNICIPAL TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA

May 14, 2004



**DIRECT TESTIMONY OF TOM BULLOCK  
ON BEHALF OF FAITH MUNICIPAL TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Tom Bullock. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508. My telephone number is (402) 441-4315.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "introductory" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to develop the cost as shown on Exhibit 2. Please discuss where in your "introductory" testimony you describe this process.**

A. The process that was used to compile and develop the cost per line in Exhibit 2 is described on pages six through twenty-one in my "introductory" testimony.

**Q6. What was the source of the data?**

A. The data was derived from the books, financial records and managers of the RLEC. Data was also obtained from switch vendors, engineering consultants, tariffs, service order administration service bureaus, the number portability administration center, a number portability database provider, and my professional experience.

**Q7. What was the purpose of obtaining that particular data?**

A. To assist me in preparing an estimate of the costs to implement LNP for the RLEC.

**Q8. Is this the type of data that experts in your field would ordinarily review in formulating an opinion concerning the costs of LNP?**

A. Yes.

**Q9. What use did you make of the data after you received it from the RLEC?**

A. I have explained the use of the data on pages eleven through twenty-one of my "introductory" testimony.

**Q10. Have you reached an opinion with a reasonable degree of professional certainty as to the total non-recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC that will be recovered over a 5-year recovery period through an end user surcharge?**

A. Yes. My opinion is that the total non-recurring costs, excluding transport, is \$42,564. Such costs were amortized over a recovery period of 60 months using a



rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$931.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$285 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. The resulting cost per line per month was calculated to be \$3.57.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$5,299 per month. The resulting LNP cost per line, per month, including transport, was calculated to be \$15.54.

**Q14. If FCC determines that transport costs should not be included in the end-user surcharge, will the transport cost still be incurred and who will pay these costs?**

A. Transport costs will have to be incurred to transport calls outside of the RLEC's service area. If the cost is not recovered through an end-user surcharge, and if these costs are not recovered from the wireless carrier, then the only party to pay these costs would be the RLEC.

**Q15. Is it your opinion that the calculations that you have just described fairly and reasonably describe the non-recurring and recurring costs for the RLEC to implement LNP and the end user charges to recover such costs?**

A. Yes.

**Q16. Does this conclude your testimony?**

A. Yes, it does.

**Faith Municipal Telephone Company**

**Exhibit 2**

		With Surcharges & Taxes
<b>LNP Non-recurring Costs</b>		
Switch Upgrade Costs	\$ 14,668	
Internal Business Procedure Changes	\$ 4,324	
Intercarrier Testing	\$ 2,760	
Other Internal Costs	\$ 19,925	
LNP Query set up	\$ 190	
SOA Non-recurring set up charge	\$ -	
Customer Notification Costs	\$ 698	
Total Non-recurring Costs excluding transport	\$ 42,564	
Non recurring transport charges	\$ 1,401	
Total Non-recurring Costs including transport	\$ 43,965	
<b>LNP Monthly Recurring Costs</b>		
SOA Monthly Charge	\$ 45	
LNP Query Costs per month	\$ 150	
Switch Maintenance Costs per month	\$ -	
Other Monthly Costs	\$ 90	
Total Recurring Monthly Costs excluding Transport	\$ 285	
Transport	\$ 4,052	
Total Recurring Monthly Costs including Transport	\$ 4,337	
<b>Monthly Cost Calculations per line</b>		
Total Nonrecurring cost per month excluding transport amortized over five years	\$ 931	
Total Nonrecurring cost per month including transport amortized over five years	\$ 961	
Total cost per month excluding transport	\$ 1,216	
Total cost per month including transport	\$ 5,299	
Access Lines excluding Lifeline	392	
LNP cost per line per month excluding transport	\$ 3.10	\$ 3.57
LNP cost per line per month including transport	\$ 13.52	\$ 15.54

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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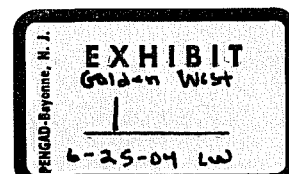
IN THE MATTER OF THE PETITION  
OF GOLDEN WEST TELECOMMUNI-  
CATIONS COOPERATIVE, INC.,  
VIVIAN TELEPHONE COMPANY, AND  
KADOKA TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-045

**DIRECT PRE-FILED TESTIMONY OF**

**GEORGE STRANDELL**

May 14, 2004



1    **Q: Please state your business name and addresses?**

2    A: My name is George Strandell. My business address is as follows:  
3        Golden West Telecommunications Cooperative, Inc.  
4        Vivian Telephone Company – (subsidiary of Golden West Telecom)  
5        Kadoka Telephone Company – (subsidiary of Golden West Telecom)  
6        415 Crown Street  
7        P.O. Box 411  
8        Wall, SD 57790-0411

9  
10       My business telephone number is 605-279-2161.

11  
12   **Q: By whom are you employed and in what capacity?**

13   A: I am the General Manager of Golden West Telecommunications Cooperative, Inc.  
14       (Golden West), Vivian Telephone Company (Vivian) and Kadoka Telephone  
15       Company (Kadoka). Golden West is a rural independent local exchange carrier that  
16       provides local exchange, exchange access and other telecommunications services to  
17       18,505 access lines, including 2,087 lifeline customers, within its South Dakota,  
18       Nebraska and Wyoming service areas, which include the exchanges of:

19

Exchange	Prefix
W. Edgemont, WY	307 663
So. Ardmore, NE	308 453
So. Oelrichs, NE	308 525
White Clay, NE	308 862
White River, SD	605 259
Wall, SD	605 279
Belvidere, SD	605 344
Quinn, SD	605 386
Oral, SD	605 424
Interior, SD	605 433
Wood, SD	605 452
Kyle, SD	605 455
Creighton, SD	605 457
Ardmore, SD	605 459
Long Valley, SD	605 462
Oelrichs, SD	605 535
Milesville, SD	605 544
Haves, SD	605 567
Edgemont, SD	605 662
Martin, SD	605 685
Faith, SD Rural	605 739
Hot Springs, SD	605 745
Maurine, SD	605 748
New Underwood, SD	605 754
Wicksville, SD	605 798
Buffalo Gap, SD	605 833
Midland, SD	605 843
Philip, SD	605 859
Pine Ridge, SD	605 867
Enning, SD	605 985
Wasta, SD	605 993

Vivian Telephone Company, a subsidiary company of Golden West, is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications service to 20,211 access lines, including 2,627 lifeline customers, within its South Dakota and Nebraska service areas, which include the exchanges of:

Exchange	Prefix
So. Bonesteel, NE	402 653
So. Burke, NE	402 774
Gregory, NE	402 974
Avon, SD	605 286
Lesterville, SD	605 364
Springfield, SD	605 369
Menno, SD	605 387
Reliance, SD	605 473
Clearfield, SD	605 557
Scotland, SD	605 583
Marion, SD	605 648
Bonesteel, SD	605 654
Murdo, SD	605 669
Custer, SD	605 673
Vivian, SD	605 683
Rosebud, SD	605 747
Burke, SD	605 775
Gregory, SD	605 835
Winner, SD	605 842
Mission, SD	605 856
Witten, SD	605 879
Freeman, SD	605 925

Kadoka Telephone Company, a subsidiary company of Golden West, is a rural independent local exchange carrier that provides local exchange, exchange access and other telecommunications service to 514 access lines, including 51 lifeline customers, within its South Dakota service area, which includes the exchange of Kadoka.

1       **Q: Does your company have any direct points of interconnection with any**  
2       **wireless carrier and/or does your company provide any blocks of numbers for**  
3       **your company's rate centers to any wireless carrier?**

4       A: Yes.

5       **Q. How do the local calling areas of your exchanges compare with those of the**  
6       **wireless carriers operating in your area?**

7       A: Wireless service areas are much more extensive.

8       **Q: Does your company provide any Extended Area Service (EAS) plans to its**  
9       **subscribers or to a connecting carrier's subscribers?**

10      A: Yes.

11      **Q: What is the current method of routing calls from your subscriber's landline**  
12      **phones to wireless phone numbers?**

13      A: If the wireless carrier has a direct connection in the rate center and the originating  
14      customer's calls are dialed as a local number (i.e. 685-XXXX), the calls are routed  
15      via EAS trunks to the wireless carrier. If the wireless carrier has no direct  
16      connection in the rate center and the originating customer's calls are dialed as a  
17      long distance number (i.e. 1+605+XXX-XXXX) the calls are routed to the  
18      customers presubscribed Interexchange carrier.

19

20      **Q: What is the number of wireless carriers serving in your company's service**  
21      **area?**

22      A:     ESTIMATE (Information obtained from Wireless Advisor.com):

23

24             1. AIR TOUCH COMMUNICATIONS, INC.

25             2. ALLTEL

26             3. AT&T WIRELESS

4. CASCADE WIRELESS
5. CELLULAR ONE/WESTERN WIRELESS
6. COMMNET CELLULAR, INC.
7. CRICKET
8. GW WIRELESS
9. LONG LINES
10. MIDWEST WIRELESS
11. MONET MOBILE NETWORKS
12. MONTANA PCS
13. NECO PCS
14. NEXTEL
15. NTN PCS
16. PYXIS COMMUNICATIONS
17. QUICK CALL CELLULAR
18. QWEST WIRELESS
19. REDWOOD WIRELESS
20. SAGIR
21. SKAGIT WIRELESS
22. SPRINT PCS
23. T-MOBILE
24. TRACY
25. UNICEL
26. UNION TELEPHONE CELLULAR
27. VERIZON WIRELESS
28. VMN CONSORTIUM
29. WIRELESS II
30. NE COLORADO CELLULAR, INC./VIAERO WIRELESS

**Q: Have any subscribers requested local number portability (LNP) from your company?**

**A:** To the best of my knowledge, no subscribers have requested LNP.

**Q: Since the passage of the 1996 Telecom Act have any wireline carriers ever requested LNP from your company?**

**A:** To the best of my knowledge, no wireline carriers have requested LNP.

**Q: Have any wireless carriers requested LNP and if so when?**

**A:** NE Colorado Cellular, Inc./Viaero Wireless-November 26, 2003  
VERIZON WIRELESS-November 14, 2003  
WESTERN WIRELESS-November 18, 2003



1    **Q: How much time would be required for your company to provide LNP, if**  
2       **ordered by the Commission?**

3    A: We have not completed a specific implementation time line yet, but implementation  
4       will take a considerable amount of time.

5    **Q: In your experience as the general manager of Golden West, Vivian and Kadoka,**  
6       **have you seen increase or additions to the itemized fees on your customer's**  
7       **telephone bills?**

8    A: Yes.

9    **Q: What do you expect your customer's reaction to be to any new LNP fees on**  
10       **their bills?**

11   A: I would expect the reaction would be negative.

12   **Q: Is the public interest, convenience, and necessity served by requiring your**  
13       **company to implement LNP at this time?**

14   A. No. The current demand for LNP appears to be non-existent, as no customers have  
15       requested LNP and the cost of LNP is significant.

16   **Q: Does this conclude your direct testimony?**

17       A: YES

18

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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE PETITION  
OF GOLDEN WEST TELECOMMUNI-  
CATIONS COOPERATIVE, INC.,  
VIVIAN TELEPHONE COMPANY, AND  
KADOKA TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-045  
  
REBUTTAL TESTIMONY OF  
  
GEORGE STRANDELL

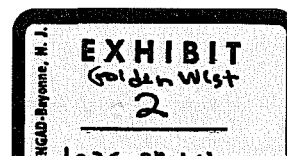
REBUTTAL TESTIMONY OF

GEORGE STRANDELL

ON BEHALF OF

GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC.,  
VIVIAN TELEPHONE COMPANY,  
AND KADOKA TELEPHONE COMPANY

June 14, 2004



1 Q. Please state your name, business name and address.

2 A. My name is George Strandell. I am the General Manager of Golden West Tele-  
3 communications Cooperative, Inc., Vivian Telephone Company, and Kadoka Tele-  
4 phone Company (collectively "Golden West"), of 415 Crown Street, Wall, South  
5 Dakota 57790.

6 Q. What is the purpose of your testimony?

7 A. I will provide rebuttal testimony to various statements made by Ron Williams in his  
8 testimony filed on May 28, 2004, on behalf of WWC License L.L.C. (Western Wire-  
9 less).

10 Q. At page 6, lines 8-10, Mr. Williams alleges that the Petitioners "waited 4 months to seek  
11 a suspension of their LNP obligations, hopeful that this tactic would result in delay of  
12 their legal obligations." How do you respond?

13 A. I dispute Mr. Williams' characterization of events as baseless and inflammatory.  
14 Once the FCC made it clear that wireline carriers would be required to port num-  
15 bers to wireless carriers in areas outside the top 100 MSAs by May 24, 2004, Golden  
16 West took immediate steps to investigate the cost and the processes involved with  
17 LNP and to explore its legal options. Because Golden West had no experience with  
18 LNP, it took time to gather the pertinent information and to make the decision to  
19 seek a suspension of the requirement from the Commission. Further, the suspension  
20 petition itself took time and effort to prepare because Golden West wanted to pre-  
21 sent as complete a petition as possible, accompanied by cost information as complete  
22 as possible.

1 Q. Do you agree with Mr. Williams' statement at page 14, lines 19-22, in which he states  
2 that "LECs will need to route a call to a ported number to the serving tandem" and to Mr.  
3 Williams' statement at page 15, lines 1-4 when he discusses the routing of allegedly "lo-  
4 cal calls?"

5 A. In its answer to Interrogatory 4., Western Wireless identifies the "serving tandem"  
6 as the Qwest LATA or local tandem, which is outside of Golden West's service terri-  
7 tory. (See Western Wireless Response to Interrogatory 4., attached to the Rebuttal  
8 Testimony of Steven E. Watkins). Therefore, Mr. Williams' statement is not consis-  
9 tent with Golden West's current call routing practices, because it would require  
10 Golden West to route calls to a point outside of its service territory as local. Fur-  
11 ther, Western Wireless admits that its interconnection agreement with Golden West  
12 does not require Golden West to route calls to the Qwest tandem. Rather, calls that  
13 terminate outside Golden West's service territory, including calls to Western Wire-  
14 less within the Golden West exchanges where Western Wireless does not have a di-  
15 rect connection, are routed to interexchange carriers for termination. Only traffic  
16 routed to Western Wireless via direct connections (which exist in three Golden West  
17 exchanges) is routed as "local traffic." Therefore, it appears that Western Wireless'  
18 argument really is a bad faith attempt to change the agreement between the parties.

19 Q. At page 19, lines 8-10, Mr. Williams states that it is his belief that "the FCC views that it  
20 is the originating carrier's responsibility to deliver local traffic for termination and that  
21 the costs associated with fulfilling that responsibility are not a number portability cost."  
22 What is your response to this statement?

1    A.    **Mr. Williams' statements are inconsistent and should be rejected. First he argues**  
2           **that Golden West should be required to install new facilities to deliver ported calls**  
3           **to Western Wireless and then he argues that the cost of those facilities are not num-**  
4           **ber portability costs. Further, as discussed at lines 5-18, page 2, Mr. Williams' sug-**  
5           **gestion that it is Golden West's responsibility to deliver traffic destined to Western**  
6           **Wireless through a serving tandem is not consistent with the interconnection**  
7           **agreement between Golden West and Western Wireless nor, as admitted by West-**  
8           **ern Wireless, is there any requirement for Golden West to route traffic in this man-**  
9           **ner.**

10   Q.    At page 20, lines 13-16, Mr. Williams states that "[t]he routing methods proposed by the  
11           Petitioners are inefficient in that they make little or no utilization of existing equipment  
12           and shared facilities currently used to exchange calls with other carriers." How do you  
13           respond?

14   A.    **The routing methods reflected in the cost exhibit attached to Golden West's Petition**  
15           **are based on the current routing arrangements that Golden West has in place with**  
16           **other carriers, namely, calls that are dialed on a local 7-digit basis are routed via di-**  
17           **rect connections. For example, there is a direct connection between Golden West**  
18           **and Western Wireless in the Martin exchange, and therefore, customers in that ex-**  
19           **change can call a Western Wireless customer on a local 7-digit basis. Therefore, if**  
20           **calls to numbers ported to a carrier are to be dialed on a local 7-digit basis, a direct**  
21           **connection needs to be established between the carriers.**

22   Q.    Would Western Wireless' routing proposal have impacts to Golden West beyond LNP?

1 A. Yes. It is my understanding that Western Wireless' proposal would increase  
2 Golden West's costs. First, Western Wireless' proposal would require Golden West  
3 to pay for new facilities to the tandem provider that it does not need for any purpose  
4 other than to route calls to ported numbers to wireless carriers. Second, Golden  
5 West would most likely have to pay transit traffic charges to the tandem provider  
6 for transporting the traffic to the wireless carriers. Third, in response to Interroga-  
7 tory 16.b., Western Wireless indicates that Golden West would be required to pay  
8 reciprocal compensation on calls to ported numbers, even if Golden West does not  
9 pay compensation on such calls today. (See Western Wireless Response to Inter-  
10 rogatory 16.b. attached to the Rebuttal Testimony of Steven E. Watkins.)

11 Q. Is there any other impact?

12 A. Yes. It appears that Western Wireless' proposal would create a regulatory arbi-  
13 trage scenario that could lead to the loss of access revenues. Today, certain calls to  
14 wireless carriers are routed to interexchange carriers. For example, if Golden West  
15 Customer A calls Western Wireless Customer B in an exchange where there is no  
16 direct connection and no EAS arrangement, Golden West Customer A incurs a toll  
17 charge. However, under Western Wireless' proposal, it is my understanding that if  
18 Golden West Customer A calls Western Wireless Customer B, who now has a num-  
19 ber ported from Golden West, Golden West Customer A would be charged for a lo-  
20 cal call. Customers may be encouraged to "give up" their existing wireless numbers  
21 and obtain wireline numbers for the sole purpose of porting that number to avoid  
22 toll charges. This is not only a bad public policy result, but also simply a bad faith

1 attempt to avoid an important contract provision upon which Western Wireless has  
2 already agreed with our company.

3 Q. Does this conclude your rebuttal testimony?

4 A. Yes.


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a copy of the foregoing **REBUTTAL TESTIMONY** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

Richard D. Coit  
[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)  
Director of Industry Affairs  
South Dakota Telecommunications Association  
P. O. Box 57  
Pierre, South Dakota 57501

Talbot J. Wieczorek  
[tjw@gpgnlaw.com](mailto:tjw@gpgnlaw.com)  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P. O. Box 8045  
Rapid City, South Dakota 57709-8045

Dated this fifteenth day of June, 2004.

  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-788



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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

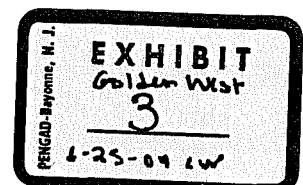
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IN THE MATTER OF THE PETITION  
OF GOLDEN WEST TELECOMMUNI-  
CATIONS COOPERATIVE, INC.,  
VIVIAN TELEPHONE COMPANY AND  
KADOKA TELEPHONE COMPANY  
FOR SUSPENSION OR MODIFICATION  
OF § 251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

Docket No. TC04-045

**DIRECT TESTIMONY OF TOM BULLOCK ON BEHALF OF  
GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC.,  
VIVIAN TELEPHONE COMPANY AND KADOKA TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

May 14, 2004



**DIRECT TESTIMONY OF TOM BULLOCK ON BEHALF OF  
GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC.,  
VIVIAN TELEPHONE COMPANY AND KADOKA TELEPHONE COMPANY  
REGARDING COMPANY-SPECIFIC COST DATA**

**Q1. Please State your name, Employer, Business Address and Telephone Number.**

A. My name is Tom Bullock. I am employed with TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln Nebraska, 68508. My telephone number is (402) 441-4315.

**Q2. On whose behalf are you testifying?**

A. I am testifying on behalf of the Company identified in the caption of the docket set out above. I will refer to this Company as the "RLEC".

**Q3. Have you provided your background information and an explanation of your role in this Docket in the "companion" testimony that has been offered in this Docket?**

A. Yes, I have.

**Q4. Did you prepare Exhibit 1 to the Petition of the RLEC filed in this Docket?**

A. Yes, in conjunction with members of the professional staff of TELEC, I was responsible for the preparation of Exhibit 1 as was attached to the Petition and I was also responsible for the preparation of supporting information prepared in connection with the responses to the discovery requests of Western Wireless. I was also responsible for the preparation of Exhibit 2 that is attached to this testimony.

**Q5. In your "introductory" testimony you have explained the line items that comprise Exhibit 2 and the process used to compile the data that was used to**

**develop the cost as shown on Exhibit 2. Please discuss where in your “introductory” testimony you describe this process.**

- A. The process that was used to compile and develop the cost per line in Exhibit 2 is described on pages six through twenty-one in my “introductory” testimony.

**Q6. What was the source of the data?**

- A. The data was derived from the books, financial records and managers of the RLEC. Data was also obtained from switch vendors, engineering consultants, tariffs, service order administration service bureaus, the number portability administration center, a number portability database provider, and my professional experience.

**Q7. What was the purpose of obtaining that particular data?**

- A. To assist me in preparing an estimate of the costs to implement LNP for the RLEC.

**Q8. Is this the type of data that experts in your field would ordinarily review in formulating an opinion concerning the costs of LNP?**

- A. Yes.

**Q9. What use did you make of the data after you received it from the RLEC?**

- A. I have explained the use of the data on pages eleven through twenty-one of my “introductory” testimony.

**Q10. Have you reached an opinion with a reasonable degree of professional certainty as to the total non-recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC that will be recovered over a 5-year recovery period through an end user surcharge?**

A. Yes. My opinion is that the total non-recurring costs, excluding transport, is \$234,342. Such costs were amortized over a recovery period of 60 months using a rate of return of 11.25%. The total nonrecurring costs per month, excluding transport, amortized over five years is \$5,124.

**Q11. Have you reached an opinion with a reasonable degree of professional certainty as to the total recurring costs, excluding transport, to implement LNP that you have calculated for the RLEC and that will be recovered from end users on an ongoing monthly charge basis?**

A. Yes. The amount is shown on Exhibit 2, and is calculated to be \$9,227 per month.

**Q12. Have you reached an opinion with a reasonable degree of professional certainty as to the total cost, excluding transport, per line per month that would be charged to end-users if LNP were to be implemented by the RLEC?**

A. Yes, The amount is shown on Exhibit 2. This amount was calculated by adding the total nonrecurring costs per month amortized over five years to the total recurring costs per month, both amounts excluding transport costs, and dividing this sum by the RLEC's total access lines. The resulting cost per line per month was calculated to be \$0.48.

**Q13. Have you reached an opinion with a reasonable degree of professional certainty as to the total LNP costs and the monthly amount recovered from each end-user if the FCC determines that transport costs should be included in the LNP costs recovered from end-users?**

A. Yes, These amounts are shown on Exhibit 2. The total nonrecurring and recurring costs, including transport costs, were calculated to be \$68,908 per month. The resulting LNP cost per line, per month, including transport, was calculated to be \$2.29.

**Q14. If FCC determines that transport costs should not be included in the end-user surcharge, will the transport cost still be incurred and who will pay these costs?**

A. Transport costs will have to be incurred to transport calls outside of the RLEC's service area. If the cost is not recovered through an end-user surcharge, and if these costs are not recovered from the wireless carrier, then the only party to pay these costs would be the RLEC.

**Q15. Is it your opinion that the calculations that you have just described fairly and reasonably describe the non-recurring and recurring costs for the RLEC to implement LNP and the end user charges to recover such costs?**

A. Yes.

**Q16. Does this conclude your testimony?**

A. Yes, it does.

**Golden West GWVK Merged**  
**Total Estimated LNP Non-recurring and Recurring Costs**

**Exhibit 2**

With  
 Surcharges  
 & Taxes

**LNP Non-recurring Costs**

Switch Upgrade Costs	\$ 145,757
Internal Business Procedure Changes	\$ 40,265
Inter-carrier Testing	\$ 4,754
Other Internal Costs	\$ 25,109
LNP Query set up	\$ 2,090
SOA Non-recurring set up charge	\$ 1,000
Customer Notification Costs	\$ 15,367
Total Non-recurring Costs excluding transport	\$ 234,342

Non recurring transport charges	\$ 23,809
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Total Non-recurring Costs including transport	\$ 258,150
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**LNP Monthly Recurring Costs**

SOA Monthly Charge	\$ 400
LNP Query Costs per month	\$ 1,650
Switch Maintenance Costs per month	\$ 3,827
Other Monthly Costs	\$ 3,350
Total Recurring Monthly Costs excluding Transport	\$ 9,227

Transport	\$ 54,036
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Total Recurring Monthly Costs including Transport	\$ 63,263
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**Monthly Cost Calculations per line**

Total Nonrecurring cost per month excluding transport amortized over five years	\$ 5,124
Total Nonrecurring cost per month including transport amortized over five years	\$ 5,845

Total cost per month excluding transport	\$ 14,352
Total cost per month including transport	\$ 68,908

Access Lines excluding Lifeline	34,566
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LNP cost per line per month excluding transport	\$ 0.42	\$ 0.48
LNP cost per line per month including transport	\$ 1.99	\$ 2.29

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE LOCAL</b>	<b>)</b>	<b>ORDER ESTABLISHING BRIEFING</b>
<b>NUMBER PORTABILITY SUSPENSION</b>	<b>)</b>	<b>AND DECISION SCHEDULE</b>
<b>DOCKETS</b>	<b>)</b>	<b>TC04-025, TC04-038, TC04-044-</b>
	<b>)</b>	<b>056, TC04-060-062, TC04-077,</b>
	<b>)</b>	<b>TC04-084-085</b>

At the conclusion of the hearing in the dockets requesting suspension of local number portability (LNP) obligations on July 1, 2004, the issue of the briefing and decision meeting schedule was left open due to the absence of counsel for many of the parties. Also not decided was whether oral argument was desired. Following the hearing, counsel for the Commission engaged in an exchange of email with counsel for the parties and discussed with the Commissioners their desire to hear oral argument. Counsel for the parties agreed that there should be oral argument if the Commissioners desired to hear it. Having considered the comments and requests of the parties regarding the schedule and of the Commissioners regarding oral argument, it is

ORDERED, that the schedule for filing and service of briefs and for the decision hearing by the Commission in the above-referenced dockets will be as follows (all dates 2004):

July 7	Transcripts received
Aug 5	Petitioners' and SDTA's briefs due
Aug 20	Intervenors' and Staff's briefs due
Aug 27	Petitioners' and SDTA's reply briefs due
Aug 31	Decision hearing (at least one Commissioner has requested oral argument)
Sep 7	Decisions issued in at least Kennebec, Santel, Sioux Valley, Golden West, and Armour/Bridgewater-Canistota/Union; and it is further

ORDERED, that because of the abbreviated schedule in these cases, all briefs will be served by email or by fax on all counsel for the parties to the applicable docket(s) on or before the above due dates in addition to the ordinary means of service on counsel; and it is further

ORDERED, that counsel may incorporate their argument pertaining to multiple or all of the LNP dockets in one brief; and it is further

ORDERED, that a decision hearing will be held on August 31, 2004, at 1:30 P.M. CDT in Room 412 of the State Capitol Building, 500 East Capitol Avenue, Pierre, SD, at which time the Commission will render decisions on at least Kennebec, Santel, Sioux Valley, Golden West, and Armour/Bridgewater-Canistota/Union. The parties may present oral argument at this hearing if they desire.

Dated at Pierre, South Dakota, this 13th day of July, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Reidino Koelbo

Date: 7/13/04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman *dk*

Gary Hanson  
GARY HANSON, Commissioner

James A. Burg  
JAMES A. BURG, Commissioner



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF )	ORDER TEMPORARILY
KENNEBEC TELEPHONE COMPANY FOR )	SUSPENDING LOCAL
SUSPENSION OR MODIFICATION OF 47 )	NUMBER PORTABILITY
U.S.C. § 251(B)(2) OF THE COMMUNICATIONS )	OBLIGATIONS
ACT OF 1934 AS AMENDED )	TC04-025

On February 12, 2004, Kennebec Telephone Company (Kennebec or Petitioner) filed a petition pursuant to 47 U.S.C. Section 251(f)(2) and SDCL 49-31-80 seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. On April 5, 2004, the Commission issued an order granting intervention to WWC License LLC d/b/a CellularOne and the South Dakota Telecommunications Association. On April 19, 2004, the Commission issued an order granting Kennebec's request for interim suspension of its obligation to implement LNP pending final decision pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80.

The Commission has jurisdiction in this matter pursuant to SDCL 49-31-80, Section 251(f)(2) of the Telecommunications Act of 1996, 47 U.S.C. § 251(f)(2) and ARSD 20:10:32:39.

On June 21-July 1, 2004, a hearing was held on this matter and the other dockets in which rural LECs seek to suspend their obligations to implement LNP. Pursuant to 47 U.S.C. § 251(f)(2) and SDCL 49-31-80, the Commission is required to render its decision in this matter within 180 days after the filing of the petition. The parties to this docket have agreed that a temporary suspension should be granted in this docket to enable a reasonable briefing and decision schedule on this and the other LNP suspension dockets. It is therefore

ORDERED, that Petitioner's obligation to implement local number portability is temporarily suspended, pursuant to 47 U.S.C. § 251(f)(2) and ARSD 20:10:32:39, until September 7, 2004, by which date the Commission will issue a final order in this docket.

Dated at Pierre, South Dakota, this 15<sup>th</sup> day of July, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Melaine Kolbo

Date: 7/15/04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman *dk*

Gary Hanson  
GARY HANSON, Commissioner

James A. Burg  
JAMES A. BURG, Commissioner

# PRECISION REPORTING

L I M I T E D

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JUL 20 2004

July 19, 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Talbot J. Wieczorek  
Gunderson, Palmer, Goodsell & Nelson  
P.O. Box 8045  
Rapid City, SD 57709-8045


Dear Mr. Wieczorek:

Per your e-mail last Friday, it was brought to my attention that Cheyenne River Exhibits 1 through 5 were shown on the index page as having not been offered or received and that, in fact, they were received on page 1065 of the transcript.

I have made the necessary changes on the index page to reflect that the exhibits are part of the record and have enclosed a copy of the corrected index page.

Please call or e-mail me if you have any questions.

Sincerely,



Cheri McComsey Wittler, RPR, CRR

Enclosures

CC: John Smith  
Rolayne Ailts Wiest  
Darla Pollman Rogers  
David A. Gerdes  
Jeffrey D. Larson

1	INDEX (Continued)				9
2	<u>Midcontinent Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
3	2 - The Latest on Local Number Portability, by Heiberger	13	103	103	
4	<u>Brookings Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
5	1 - Adkins Direct	293	297	298	
6	2 - Adkins Rebuttal	293	297	298	
7	3 - DeWitte Direct	327	463	464	
8	<u>Stockholm Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
9	1 - Nowick Direct	327	344	344	
10	2 - Nowick Rebuttal	327	344	344	
11	3 - DeWitte Direct	327	463	464	
12	<u>Venture Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
13	1 - Houdek Direct	362	365	365	
14	2 - Houdek Rebuttal	362	365	365	
15	3 - DeWitte Direct	362	463	464	
16	4 - 6/18/04 Letter to Wise from Powell	414	416	418	
17	<u>West River Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
18	1 - Reisenauer Direct	426	429	429	
19	2 - Reisenauer Rebuttal	426	429	429	
20	3 - DeWitte Direct	426	463	464	
21	<u>SDTA Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
22	1 - Watkins Direct	327	496	497	
23	2 - Watkins Rebuttal	327	496	497	
24	3 - List of SDTA Members	592	638	638	
25					

1	INDEX (Continued)				10
2	<u>SDTA Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
3	4 - ITC Interconnection Agreement	594	638	---	
4	<u>Valley Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
5	1 - Oleson Direct	738	754	754	
6	2 - Oleson Rebuttal	738	754	754	
7	3 - Bullock Direct	738	865	865	
8	<u>Faith Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
9	1 - Ayres Direct	757	759	759	
10	2 - Ayres Rebuttal	757	759	759	
11	3 - Bullock Direct	757	865	865	
12	<u>Golden West Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
13	1 - Strandell Direct	765	768	768	
14	2 - Strandell Rebuttal	765	768	768	
15	3 - Bullock Direct	765	865	865	
16	<u>Armour Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
17	1 - Law Direct	765	771	771	
18	2 - Law Rebuttal	765	771	771	
19	3 - Bullock Direct	765	865	865	
20	<u>Sioux Valley Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
21	1 - Law Direct	765	772	772	
22	2 - Law Rebuttal	765	772	772	
23	3 - Bullock Direct	765	865	865	
24					
25					

1	INDEX (Continued)				11
2	<u>Bullock Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
3	1 - Bullock Direct	833	858	859	
4	2 - Bullock Rebuttal	833	858	859	
5	3 - Bullock Corrected	1081	1081	1081	
6	<u>Alliance Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
7	1 - Snyders Direct	812	814	814	
8	2 - Snyders Rebuttal	812	814	814	
9	3 - Bullock Direct	812	865	865	
10	<u>McCook Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
11	1 - Roth Direct	823	865	865	
12	2 - Roth Rebuttal	823	825	826	
13	<u>Tri-County Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
14	1 - Bullock Direct	833	865	865	
15	<u>Western Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
16	1 - Davis Direct	989	994	994	
17	<u>Davis Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
18	1 - Davis Direct, Multi-company	989	994	994	
19	2 - Davis Rebuttal	989	994	994	
20	<u>Midstate Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
21	1 - Benton Direct	989	970	970	
22	2 - Benton Rebuttal	989	970	970	
23	3 - Davis Direct	989	994	994	
24					
25					

1	INDEX (Continued)				12
2	<u>Beresford Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
3	1 - Hansen Direct	989	982	983	
4	2 - Hansen Rebuttal	989	982	983	
5	3 - Davis Direct	989	994	994	
6	<u>Kennebec Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
7	1 - Bowar Direct	989	950	950	
8	2 - Bowar Rebuttal	989	950	950	
9	3 - Davis Direct	989	994	994	
10	<u>RC Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
11	1 - Harrington Direct	1043	1045	1045	
12	2 - Harrington Rebuttal	1043	1045	1045	
13	3 - Davis Company-Specific Direct	1043	1055	1056	
14	<u>Cheyenne River Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
15	1 - Williams Direct	1061	1065	1065	
16	2 - Williams Rebuttal	1061	1065	1065	
17	3 - Neff Direct	1061	1065	1065	
18	4 - Neff Rebuttal	1061	1065	1065	
19	5 - Costs document	1061	1065	1065	
20	<u>Santel Exhibit Nos.</u>	<u>M</u>	<u>0</u>	<u>R</u>	
21	1 - Kroell Direct Prefiled	1071	1094	1094	
22	2 - DeWitte Direct Prefiled	1071	1124	1124	
23	3 - DeWitte Rebuttal	1071	--	--	
24					
25					

INDEX (Continued)					INDEX (Continued)				
1					1				
2	<u>Midcontinent Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	2	<u>Bullock Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
3	2 - The Latest on Local Number Portability, by Heiberger	13	103	103	3	1 - Bullock Direct	833	858	859
4	<u>Brookings Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	4	2 - Bullock Rebuttal	833	858	859
5	1 - Adkins Direct	293	297	298	5	3 - Bullock Corrected	1081	1081	1081
6	2 - Adkins Rebuttal	293	297	298	6	<u>Alliance Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
7	3 - DeWitte Direct	327	463	464	7	1 - Snyders Direct	812	814	814
8	<u>Stockholm Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	8	2 - Snyders Rebuttal	812	814	814
9	1 - Nowick Direct	327	344	344	9	3 - Bullock Direct	812	865	865
10	2 - Nowick Rebuttal	327	344	344	10	<u>McCook Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
11	3 - DeWitte Direct	327	463	464	11	1 - Roth Direct	823	865	865
12	<u>Venture Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	12	2 - Roth Rebuttal	823	825	826
13	1 - Houdek Direct	362	365	365	13	<u>Tri-County Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
14	2 - Houdek Rebuttal	362	365	365	14	1 - Bullock Direct	833	865	865
15	3 - DeWitte Direct	362	463	464	15	<u>Western Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
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17	<u>West River Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>	17	<u>Davis Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
18	1 - Reisenauer Direct	426	429	429	18	1 - Davis Direct, Multi-company	989	994	994
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20	3 - DeWitte Direct	426	463	464	20	<u>Midstate Exhibit Nos.</u>	<u>M</u>	<u>O</u>	<u>R</u>
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24	3 - List of SDTA Members	592	638	638	24				
25					25				

INDEX (Continued)					INDEX (Continued)				
1					1				
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24					24				
25					25				

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August 5, 2004

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AUG 05 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

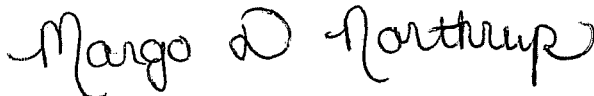
Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

Re: LNP Suspension Dockets  
Post-Hearing Brief of Petitioners and SDTA

Dear Ms. Bonrud:

Enclosed herein are the original and ten copies of the Post-Hearing Brief of Petitioners and SDTA in the LNP Dockets.

Sincerely,



Margo D. Northrup  
Attorney at Law

MDN/ph

Enclosures

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION

AUG 05 2004

OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF §251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

DOCKET NUMBERS:

TC04-025 Kennebec Telephone Co.  
TC04-038 Santel Communications  
TC04-044 Sioux Valley Telephone Co.  
TC04-045 Golden West, Vivian Telephone Co and Kadoka Tele Co  
TC04-046 Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
TC04-047 Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 Beresford Municipal Telephone Company  
TC04-049 McCook Cooperative Telephone Company  
TC04-050 Valley Telecommunications Cooperative Association, Inc.  
TC04-051 City of Faith Telephone Company  
TC04-052 Midstate Communications, Inc.  
TC04-053 Western Telephone Company  
TC04-054 Interstate Telecommunications Cooperative, Inc.  
TC04-055 Alliance Communications Inc. and Splitrock Properties  
TC04-056 RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
TC04-060 Venture Communications Cooperative  
TC04-061 West River Cooperative Telephone Company  
TC04-062 Stockholm-Strandburg Telephone Company  
TC04-084 Tri-County Telcom  
TC04-085 Cheyenne River Sioux Tribe Authority

**POST-HEARING BRIEF OF PETITIONERS AND SDTA**

Submitted on behalf of the above-named Rural Local Exchange Carriers and  
the South Dakota Telecommunications Association

August 5, 2004

## INTRODUCTION

Pending before the Public Utilities Commission of the State of South Dakota (“Commission”) are 20 Petitions<sup>1</sup> filed by rural telephone companies pursuant to 47 U.S.C. §251(f)(2) seeking suspension or modification of the requirements of 47 U.S.C. §251(b)(2) concerning number portability, including suspension or modification of the requirements set forth In the Matter of Telephone Number Portability, CC Docket 95-116, Memorandum Opinion and Order and the Further Notice of Proposed Rulemaking, FCC 03-284 (released November 10, 2003) (“*November 10 Order*”), insofar as the Order requires these Petitioners to implement local number portability (“LNP”).

The *November 10 Order* obligates local exchange carriers located outside the top 100 metropolitan statistical areas (MSAs) to provide LNP and to port numbers to wireless carriers when certain conditions have been met. Such obligation commenced on May 24, 2004, or commences within six months of the date that the wireline carrier receives a bona fide request for LNP from a commercial radio service (“CMRS”) provider. (*November 10 Order* at ¶29.)

In §251(f)(2) of the Act, Congress granted state commissions jurisdiction to suspend or modify the application of a requirement of §251(b) or (c) for “two percent rural carriers,” which includes a suspension of the requirement to provide LNP.<sup>2</sup> Each of the Petitioners in this case is seeking suspension or modification of the requirement to implement LNP. Thus, the fundamental question presented in this proceeding is whether the Commission should suspend or modify

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<sup>1</sup> Initially, 21 companies filed Petitions with the Commission requesting suspension or modification of LNP requirements. Subsequently, two Petitioners (CRST and James Valley) entered into settlement stipulations with Western Wireless. CRST’s settlement position is that the Commission’s ultimate disposition of transport issues may affect third parties, other than Western Wireless, which has its own transport arrangement with CRST. For this reason only, CRST’s docket number is included in the caption of this brief.

<sup>2</sup> It is undisputed that each of the Petitioners in the pending applications constitute carriers with less than 2% of the nation’s subscriber lines, nationwide.

the Petitioners' requirements to implement LNP, both wireline to wireline and wireline to wireless.

The Petitioners represent that when the Commission considers the initial and ongoing costs of implementing LNP, the Commission will conclude that such costs create a significant adverse economic impact on users of telecommunications services generally and, to the extent that any costs are not recovered by an end user LNP surcharge, on the individual Petitioners themselves. Specifically, each company estimated the increase in a subscriber's monthly local service cost that would result from the implementation of LNP. Additionally, each company estimated the total increase in a subscriber's local service cost if the company is required to absorb the cost of transporting calls to ported numbers outside of Petitioner's local service area. While recognizing that the Federal Communications Commission ("FCC") has determined that local exchange carriers ("LECs") must implement LNP to wireless providers, each Petitioner contends that the *November 10 Order* does not address issues relating to the routing of calls to ported numbers in those cases in which no direct connection exists between carriers. Further, the Petitioners assert that in light of current routing arrangements, it is technically infeasible to complete calls on a local basis to telephone numbers ported to a wireless provider. Finally, Petitioners demonstrated through evidence that there is little or no public demand for LNP. As a result, the Petitioners believe it is not consistent with the public interest, convenience and necessity to expend the significant investment necessary to deploy LNP.

All of the remaining Petitioners and Intervenor SDTA hereby submit this Post-Hearing Brief in support of their request that the Commission suspend or modify the LNP requirement in Section 251(b)(2) of the Act. Based on the evidence presented at the hearing in this matter, each Petitioner has demonstrated that it satisfies the requirements of Section 251(f)(2) and SDCL 49-



31-80. Accordingly, the Commission should grant continued suspension or modification of the requirement of Petitioners to provide LNP.

#### PROCEDURAL HISTORY

By twenty separate Petitions filed by rural telephone companies, beginning with Kennebec Telephone Company (“Kennebec”) on February 12, 2004, and most recently, Tri-County Telcom, Inc. (“Tri-County”) on April 23, 2004, said carriers are seeking suspension or modification of the FCC’s requirement to implement LNP. Notice of the filing of each of the Petitions was electronically transmitted by the Commission in accordance with this Commission’s Administrative Rules. Petitions for intervention were filed by WWC License, LLC (“WWC” or “Western Wireless”) in each docket; by South Dakota Telecommunications Association (“SDTA”) in each docket; and by Midcontinent Communications (“Midcontinent”) in eight of the dockets. Intervention was granted to each party petitioning for intervention.

Each of the Petitioners requested the Commission to (1) issue an interim order that suspends any obligation that may exist for Petitioner to provide LNP until six months after entry of a final order; (2) issue a final order that grants a permanent suspension or modification of Petitioner’s obligation to implement LNP until conditions are met as described in the Petition; and (3) grant Petitioner such other and further relief that may be proper. At a regularly scheduled meeting on April 6, 2004, the Commission heard arguments from Petitioners, WWC, and SDTA regarding the Petitioners’ requests for an order granting interim suspension. Pursuant to 47 U.S.C. §251(f)(2) and SDCL 49-31-80, the Commission granted the requests for an interim suspension order pending final decision.

By Orders dated May 4, 2004, and June 16, 2004, the Commission implemented a Procedural Schedule in each of the dockets that established a timeline for discovery, a schedule for the

presentation of prefiled testimony and exhibits of all the parties, and dates for administrative hearings in the dockets. On June 21, 2004, through July 2, 2004, pursuant to that schedule, hearings were held before the Commission in each docket. Petitioners presented testimony through the following witnesses: Steven E. Watkins, a telecommunications consultant specializing in LNP issues, affiliated with the law firm of Kraskin, Mormon and Cosson in Washington, D.C. (SDTA Exhibits 1, 2; Tr. 495-526); John DeWitte, Vice President of Engineering for Vantage Point Solutions, Mitchell, South Dakota, who presented cost evidence on behalf of Interstate Telecommunications Cooperative, Inc. ("ITC"), Stockholm-Strandburg Telephone Company ("Stockholm"), Venture Communications Cooperative ("Venture"), West River Cooperative Telephone Company ("West River"), and Swiftel Communications ("Swiftel") (Brookings Ex. 3, Stockholm Ex. 3, Venture Ex. 3, West River Ex. 3, ITC Exs. 4(A) and 4(B); Tr. 135-290; 454-492; 1085-1089; 1121-1125); Tom Bullock and Dan Davis, both consultants with TELECOM Consulting Resources, Omaha, Nebraska, office, who presented cost evidence on behalf of the remaining Petitioners (except CRST) (Valley Ex. 3, Faith Ex. 3, Golden West Ex. 3, Armour Ex. 3, Sioux Valley Ex. 3, Bullock Exs. 1, 2, 3, Alliance Ex. 3, Tri-County Ex. 1, Western Ex. 1, Davis Exs. 1 and 2, Midstate Ex. 3, Beresford Ex. 3, Kennebec Ex. 3, Roberts County Ex. 3; Tr. 83-917; Tr. 989-1015; 1037; 1054-1056). In addition, the general managers of most of the petitioning companies presented testimony throughout the course of the hearings. WWC presented its case through the testimony of Ron Williams (WWC Ex. 1; Tr. 529-591; 600-713; 925-940; 1019-1035; 1058-1059; and 1129-1134).

Thereafter, on July 13, 2004, the Commission entered an Order Establishing Briefing and Decision Schedule in all of the remaining LNP dockets. On July 15, 2004, the Commission extended Petitioner Kennebec's suspension of obligation to implement LNP, pursuant to 47 U.S.C.

§251(f)(2) and ARSD 10:10:32:39, until September 7, 2004, which is the date for final Commission order in all dockets.

## I.

### **THE SOUTH DAKOTA PUBLIC UTILITY COMMISSION HAS JURISDICTION TO SUSPEND LOCAL NUMBER PORTABILITY OBLIGATIONS PURSUANT TO DEFINED FEDERAL STANDARDS**

As set forth in Petitioners' pleadings initiating these consolidated proceedings, the FCC has set forth requirements for the implementation of LNP, pursuant to 47 U.S.C. § 251(b)(2), applicable to the Petitioners. See e.g. Petition of Interstate Telecommunications Cooperative, Inc. (ITC), p. 2. Specifically, the FCC has set forth rules concerning the implementation of LNP by wireline carriers in sections 52.23-52.29 and 52.32-52.33 of its rules. 47 C.F.R. §§52.23-52.29 and 52.32-52.33. Further, pursuant to the *November 10 Order*, the FCC has required that local exchange carriers outside the largest 100 Metropolitan Statistical Areas (MSAs) provide LNP and port numbers to wireless carriers beginning May 24, 2004, or within six months of the date upon which a bona fide request has been received by such carrier. The *November 10 Order* is currently before the U.S. Court of Appeals for the District of Columbia Circuit, in United States Telecom Association v. FCC, case nos. 03-1414 and 03-1443. The Order has not been stayed by the FCC itself, nor the D.C. Circuit.

The requirements of this Order went far beyond existing rules for LNP between wireline carriers, which rules limited portability between such carriers to the LEC rate center. Specifically, the *November 10 Order* found that LECs must implement LNP to allow porting to wireless carriers, even where the wireless carrier does not have a point of interconnection or telephone numbers in a particular LEC's rate center. Moreover, the Order applied this new requirement in a discriminatory way. It did not require wireless carriers to allow porting back to wireline carri-

ers where a “mismatch” exists – a frequent occurrence – between wireline and wireless rate centers. Rather, the FCC only instituted a rulemaking to consider this issue, while requiring wireline LECs nevertheless to proceed with such one-sided porting.

The Petitioners are all eligible to request suspension of the FCC’s LNP requirements from this Commission, and this Commission has jurisdiction to grant the suspension request. Section 251 (f)(2) frames both this Commission’s jurisdiction, and the standards to be met for the suspension of the LNP requirements. As to jurisdiction, this section reads in pertinent part, that “a local exchange carrier with fewer than two percent of the nation’s subscriber lines installed in the aggregate nationwide may petition a state Commission for modification” of the number portability requirements.

The Petitioners all easily fall below this “two percent” threshold; indeed their eligibility to request suspension based on the two percent size threshold is undisputed on the record.

Western Wireless witness Ron Williams attempted a sophisticated attack on this Commission’s jurisdiction by suggesting, apparently, that the LNP suspension requests were waiver requests over which the FCC exercised jurisdiction. (Tr. 565). He later admitted that the FCC document he relied upon in fact recognized state commission jurisdiction under Section 251(f) and further that FCC Chairman Powell had, shortly before the hearing, issued a letter to the President of NARUC. In that letter, Chairman Powell urged close consideration of rural LEC LNP “waiver” requests (technically known as suspension or modification requests under the statute) filed with state commissions by rural LECs. (Tr. 565-68; Venture Ex. 4). Ultimately, when questioned by Vice-Chairman Hanson on the question of jurisdiction, Mr. Williams conceded “this is a good forum to resolve this.” (Tr. 659). That the petitioning LECs here are eligible to seek suspension of the FCC’s LNP requirements, and that this Commission has jurisdic-

tion to grant the suspension requests under Section 251(f)(2), are clear both as a matter of record and law.

The statutory standards that govern state commission-ordered suspensions or modifications are equally straightforward. Pursuant to Section 251(f)(2), the Commission shall grant a petition for suspension or modification to the extent that, and for such duration as, the Commission determines that such suspension or modification:

- (A) Is necessary:
  - i. to avoid a significant adverse economic impact on users of telecommunications services generally;
  - ii. to avoid imposing a requirement that is unduly economically burdensome; or to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience and necessity.

47 U.S.C. § 251(f)(2).

The correct application of the foregoing statutory standard was described by the United States Court of Appeals for The Eighth Circuit in Iowa Utilities Board v. Federal Communications Commission, 219 F.3d 744 (8<sup>th</sup> Cir. 2000)(IUB II) in a proceeding on remand from the United States Supreme Court. There, the Court construed the language of “undue economic burden” found in Section 251(f)(2)(A). In finding that the FCC had gone too far in its construction of the meaning of “undue economic burden,” the Court noted that such undue economic burden is just one of three bases upon which suspension or modification may be granted under Section 251(f)(2)(A). 219 F.3d at 761. *See also*, Order Granting Suspension, Nebraska Public Service Commission (*Nebraska Order*); Application Nos. C-3096 et seq., p.6 (“Applicants required to establish at least one of the criteria listed in Section 251(f)(2)(A) and that suspension is consistent with public interest, convenience and necessity”).

When the record of this proceeding is examined against the statutory framework discussed above, it is abundantly clear that suspension and modification of the LNP requirements are warranted. Demand for LNP is virtually non-existent in Petitioners' customer base, due in no small part to the sorry state of wireless coverage in rural South Dakota. Against this complete lack of demand, as almost every manager testified and as is recounted in detail later in this brief, are very real costs for implementing LNP. Whether these costs turn up as monthly LNP surcharges or as general rate increases, they still constitute "adverse economic impact" and "undue economic burden" within Section 251(f)(2)(A) of the statute, particularly given the very questionable "benefit" that LNP will bring to rural customers.

The balance of this brief focuses on the very real costs of LNP, (including the issue of transport responsibility and its broad implications for the industry), and the public interest consequences of LNP implementation devoid of any tangible benefits. And while the Commission considers this calculus, it should bear in mind the apparent cynicism of LNP's advocate in chief, Western Wireless. In this respect, Mr. Williams admitted that the company projected zero ports for the city of Faith, despite requesting LNP from it. (Tr. 586-87). He further admitted that until recently, Western Wireless was in fact opposed to LNP. (Tr. 574-75). South Dakota's consumers deserve better use of the PUC's regulatory machinery, and its grant of the requested suspensions clearly will serve that purpose.

## **II.**

### **PETITIONERS HAVE MET THE REQUIREMENTS OF SECTION 251(F)(2)(A).**

Pursuant to Sections 251(f)(2)(A)(i) and (ii), Petitioners have demonstrated that a suspension or modification of the LNP requirement is necessary "to avoid a significant adverse economic impact on users of telecommunications services generally" and "to avoid imposing a re-

quirement that is unduly economically burdensome.” As discussed below, each Petitioner has presented detailed information concerning the costs that will be incurred to implement LNP, including switch software and hardware costs, LNP service order and query costs, and the technical and administrative costs associated with implementing LNP. There is no dispute that Petitioners will incur such costs to implement LNP. The Petitioners also have presented information concerning the transport issue and its related cost. The transport issue and the costs associated with transport are much in dispute and will be addressed separately in this brief.

**A.**

PETITIONERS HAVE DEMONSTRATED THAT A SUSPENSION OR  
MODIFICATION OF THE LNP REQUIREMENT IS NECESSARY “TO AVOID  
A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON USERS OF TELECOMMUNICA-  
TIONS SERVICES GENERALLY”

Petitioners’ cost exhibits and testimony present the known cost elements and amounts that will be incurred if Petitioners are required to implement LNP. Petitioners did not limit their cost showing only to the costs that will be included in the federal LNP surcharge. This was to reflect the full cost burden of LNP that will impact consumers and the Petitioners.

Most of the costs shown by Petitioners are not disputed by Intervenors and where certain costs are disputed, the arguments are not valid. Western Wireless disputes certain costs identified by some Petitioners, such as switch costs, because it alleges the particular cost cannot be recovered through the federal LNP surcharge. This criticism, however, is misplaced and improperly seeks to limit the expansive review that is to be undertaken by state commissions pursuant to section 251(f)(2). Rather, the duty of this Commission is to consider all economic impacts—even those that may not be easily identifiable on end-user telephone bills through the federal LNP surcharge.

In other cases, Western Wireless disputes an element of Petitioner's cost exhibit because it contends that Petitioner should have used a more cost efficient methodology. For example, Western Wireless generally disputes the method used by Petitioners to provide transport, however it does not dispute the cost amount projected by Petitioners for their method. Similarly, Western Wireless disputes including costs for an automated Service Order Administration (SOA) process because it argues that an automated process cannot be justified in light of the small number of projected ports. Western Wireless, however, does not dispute what an automated SOA service would cost.

The Commission should not be tempted by Western Wireless' false arguments to simply reject certain costs projected by Petitioners because there may be a "cheaper" alternative. There is no requirement that Petitioners implement LNP in the cheapest way possible. And, as demonstrated in the record, there are valid business reasons why a company may not select the least cost alternative. For example, a company may choose to implement an automated SOA process to be able to process ports in a shorter time-frame. The real fallacy of Western Wireless' argument, however, is that the costs Western Wireless urges this Commission to reject will impact consumers, to their detriment. Therefore, the Commission must consider all costs identified by Petitioners to make an accurate determination of the impact of LNP.

In any event, the most striking aspect of the evidence on the cost issue is that, other than the dispute over the cost of transport, Western Wireless' estimates for the cost of LNP, in many cases, are fairly close to the Petitioners' estimates and, in the remaining cases, even Western Wireless' cost estimates are significant. Thus, even though Western Wireless has disputed some aspects of the costs presented by Petitioners, by Western Wireless' own estimates the cost of LNP, even without transport, would have "a significant adverse economic impact on us-



ers of telecommunications services generally” and would impose “a requirement that is unduly economically burdensome.”

A company specific discussion of the costs elements in dispute follows:

Companies represented by John De Witte

1. Swiftel (TC04-047)

Swiftel’s projected cost of LNP, excluding transport, ranges from \$0.74 per line per month in the first year after implementation to \$0.83 per line per month in the fifth year after implementation. (ITC Ex. 4B) Western Wireless projects the cost at \$0.68 to \$0.76. (WWC Ex. 9)

Western Wireless disputes the use of an automated SOA process by Swiftel and, instead, argues that the cost exhibit should only reflect the cost of a manual SOA process. As alleged by Western Wireless, this would reduce the SOA non-recurring cost by \$1,000 and it would reduce the monthly recurring cost by \$100. Western Wireless’ revised cost estimate should be rejected because there are valid business reasons to use an automated SOA mechanism. An automated mechanism will be necessary if the porting interval is reduced (ITC Ex. 4 at 6); and it reduces the need for additional personnel for LNP. In addition, once the LNP surcharge is established, carriers are allowed to change the surcharge only in special circumstances. (Tr. 484). Therefore, even if current circumstances, such as porting volumes and porting interval, may not require an automated process, a carrier must implement LNP in anticipation of changed circumstances in order to ensure that its LNP mechanisms and its cost recovery is appropriate for the long term.

Western Wireless also alleges that the monthly recurring marketing cost projected by Swiftel of \$1,000 is not justified. As explained by Mr. De Witte, however, this cost estimate assumes a single annual mailing of an informational flyer to customers to explain LNP. The recurring cost is based on a price quote from a marketing firm that the printing cost of an informa-

tional flyer would be approximately \$800 per 1,000 copies. In 2003, Swiftel had approximately 14,057 access lines. Assuming each access line would receive the informational flyer with their bill, the annual cost to print the flyer would be approximately \$12,000. This cost, represented as a monthly recurring cost, is \$1,000 per month. (ITC Ex. 4 at 8).

Accordingly, Swiftel's projected cost should be accepted.

## 2. ITC (TC04-054)

ITC's projected cost of LNP, excluding transport, ranges from \$0.54 per line per month in the first year after implementation to \$0.61 per line per month in the fifth year after implementation. (ITC Ex. 4B) Western Wireless projects the cost at \$0.55 to \$0.62. (WWC Ex. 9).

Western Wireless disputes the use of an automated SOA process and, instead argues that the cost exhibit should only reflect the cost of a manual SOA process. As alleged by Western Wireless, this would reduce the non-recurring SOA cost by \$1,000 and the recurring cost by \$100 per month. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

Western Wireless argues that the entire recurring cost for testing, translations and administrative functions, totaling \$380 per month, should be eliminated because it is overstated and redundant. As demonstrated by Mr. De Witte, however, this expenditure is necessary "to perform tests for each ported number as the port is requested to ensure that the ported number route correctly flows through the Petitioner's network." (ITC Ex. 4 at 8). This cost was derived based on Petitioner's estimate that Translations activities for each port will require approximately one hour at a loaded hourly rate of \$46 per hour. This equates to approximately \$90 per month. Further, the Petitioner estimates that Testing and Verification activities for each port will require approximately one hour at a loaded hourly rate of \$46 per hour. This equates to approximately

\$90 per month. For the administrative functions, the Petitioner estimates that this function will require for each consumer approximately 2.5 hours at \$41 per hour. This equates to approximately \$200 per month at a rate of 2 ports per month. Accordingly, these costs are justified and should be included.

Western Wireless disputes the monthly recurring marketing cost projected by ITC of \$1,000. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

ITC's projected cost of providing LNP in the Webster exchange as requested by Midcontinent is over \$2.00 per line per month for five years and approximately \$1.47 per line per month thereafter. Midcontinent provides no evidence to dispute any of the costs presented by ITC in connection with the provision of LNP in the Webster exchange. Midcontinent questioned the estimated per line charge, however, and argued that the cost of LNP associated with the Webster exchange should have been spread over ITC's entire customer base. (Tr. 211-214) Midcontinent is simply wrong on this point as the FCC's rules only allow carriers to assess a federal LNP surcharge to customers for whom LNP is available. If ITC is directed to implement LNP as requested by Midcontinent, LNP will be available only in the Webster exchange and ITC would be allowed to assess a federal LNP surcharge only to its customers served by the Webster exchange. Moreover, this is the only fair allocation method. ITC's method of calculating the per line charge, therefore, is correct.

Accordingly, ITC's projected costs for providing LNP company-wide and for providing LNP to Midcontinent in the Webster exchange only should be accepted.

### 3. Stockholm (TC04-062)

Stockholm's projected cost of LNP, excluding transport, ranges from \$4.99 per line per month in the first year after implementation to \$5.58 per line per month in the fifth year after implementation. (ITC Ex. 4B) Western Wireless projects the cost at \$2.62 to \$2.93. (WWC Ex. 9).

The majority of the difference in these estimates results because Western Wireless removes \$35,000 in non-recurring switch hardware requirements and \$15,000 in additional non-recurring software features. These upgrades are required to support the addition of AMA recording capabilities that will be required to allow the Petitioner to record and bill traffic (including LNP traffic). Western Wireless provides no explanation for this change.

Western Wireless disputes the use of an automated SOA process and, instead argues that the cost exhibit should only reflect the cost of a manual SOA process. As alleged by Western Wireless, this would reduce the non-recurring SOA cost by \$2,000 and the recurring cost by \$500 per month. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

Western Wireless disputes the monthly recurring marketing cost projected by Stockholm of \$67. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

Western Wireless reduces the non-recurring customer care cost from \$10,000 to \$5,000. This is the estimated cost for a 5 day on-site training session for the customer care system. Western Wireless offers no explanation for its reduction. Therefore, the reduction should be rejected.

#### 4. Venture (TC04-060)

Venture's projected cost of LNP, excluding transport, ranges from \$0.55 per line per month in the first year after implementation to \$0.61 per line per month in the fifth year after implementation. (ITC Ex. 4B) Western Wireless projects the cost at \$0.53 to \$0.59. (WWC Ex. 9).

Western Wireless argues that the non-recurring SOA cost should be reduced by \$200 and provides no support for this position. Therefore, it should be rejected.

Western Wireless disputes the monthly recurring marketing cost projected by Swiftel of \$933. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

Accordingly, Venture's projected cost should be accepted.

#### 5. West River (TC04-061)

West River's projected cost of LNP, excluding transport, ranges from \$0.93 per line per month in the first year after implementation to \$1.04 per line per month in the fifth year after implementation. (ITC Ex. 4B) Western Wireless projects the cost at \$1.17 to \$1.31. (WWC Ex. 9)

Western Wireless disputes the use of an automated SOA process and, instead argues that the cost exhibit should only reflect the cost of a manual SOA process. As alleged by Western Wireless, this would reduce the non-recurring SOA cost by \$2,000 and the recurring cost by \$223 per month. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

Western Wireless disputes the monthly recurring marketing cost projected by West River of \$267. For the same reasons as discussed for Swiftel, Western Wireless' cost revision on this point should be rejected.

Accordingly, West River's projected cost should be accepted.

6. Santel (TC04-038)

Santel's projected cost of LNP, excluding transport, ranges from \$0.78 per line per month in the first year after implementation to \$0.87 per line per month in the fifth year after implementation. (ITC Ex. 4B). Western Wireless projects the cost at \$0.61 to \$0.69. (WWC Ex. 9).

Western Wireless disputes Santel's cost amounts for SOA service; recurring testing, translations and administrative cost; and recurring marketing cost. For the same reasons as discussed previously, Western Wireless' cost revisions on these points should be rejected.

Accordingly, Santel's projected cost should be accepted.

Companies represented by Tom Bullock

7. Alliance and Splitrock (TC04-055)

In the case of Alliance, Mr. Bullock estimated the total LNP non-recurring costs (excluding transport) at \$158,353.00, and total recurring monthly costs (excluding transport) at \$3,668.00. WWC disputed only three aspects of Alliance's cost figures, aside from transport. In the category of "Switch Upgrade Costs," Alliance's estimated cost was \$94,308.00, compared with WWC's estimated cost of \$62,743.00 (Bullock Ex. 3; WWC Exhibit 15). The basic difference between these two figures results from "equipped line" counts. Petitioner's estimate is the correct one, as it is based upon actual counts of equipped lines in the DMS-10 switches for Alliance and Splitrock. (Tr. 836).<sup>3</sup> These numbers were based upon actual contact with the vendor, as opposed to a speculative calculation based upon a formula that Mr. Williams apparently concocted for Alliance. (Tr. 930-931).

The second category with which WWC differed in the Alliance case is "Other Internal Costs," wherein Mr. Bullock's cost estimate was \$33,532.00, and Mr. Williams' was

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<sup>3</sup> Mr. Bullock submitted a corrected Exhibit 3 to the Commission after the hearing to reflect the corrected counts of equipped lines. (Bullock Ex. 3)

\$15,000.00. In fact, Mr. Williams arbitrarily inserted \$15,000.00 as “Other Internal Costs” for all Petitioners, based upon his unsubstantiated “nonarithmetic mean” for Petitioners, apparently derived by utilizing the services of SDTA to negotiate contracts. (Tr. 934). By contrast, Alliance (and all other Petitioners) based its “Other Internal Cost” estimate upon Alliance’s past experience of negotiating contracts with Western Wireless and other carriers. “Negotiating as a group” was also taken into consideration in Alliance’s final cost in the “Other Internal Costs” category. (Tr. 851).

The final dispute between WWC’s cost estimates for Alliance and Mr. Bullock’s is contained in the category entitled “Other Monthly Costs”, \$2,068.00 in Mr. Bullock’s Exhibit 3 versus \$488.00 in Exhibit 15. Once again, Mr. Williams arbitrarily reduced this figure based upon his estimates of how long it would take each company to port a number. (Tr. 935). Mr. Bullock’s calculation is based upon evidence that there will be very little demand for porting, thus no one will become very proficient with the porting process, which will result in more time to port numbers. (Tr. 854). As shown, the evidence substantiates Mr. Bullock’s cost calculations.

8. Armour, Bridgewater-Canistota, and Union (TC 04-046)

For this group of Petitioners, Mr. Bullock’s final cost estimates (excluding transport) do not differ significantly from WWC’s estimates. Petitioner estimated total non-recurring costs for LNP implementation at \$121,276.00, and total monthly recurring costs at \$1,591.00. The differences are found in the “Other Internal Costs” (\$35,152 versus \$15,000); “SOA Monthly Charge” (\$225.00 versus \$165.00); and “LNP Query Costs per Month” (\$750.00 vs. \$412.00). In addition, WWC estimated more ports for this group of companies than did Mr. Bullock. The explanation for the differences in the first two categories is the same as for Alliance.

Petitioner's estimate for the LNP query costs per month is based upon actual quotes received from a query service provider (Tr. 852). Mr. Williams, on the other hand, provided no explanation or justification for his lower estimate. Mr. Williams conceded, however, that the cost estimate differences (excluding transport) for this Petitioner were not significant. (Tr. 933). Therefore, Petitioner's costs estimates are basically uncontested.

9. Faith (TC04-051)

By any cost consultant's calculations, the cost of LNP implementation in the case of Petitioner Faith, even excluding transport, is very high. Non-recurring LNP costs were estimated by Mr. Bullock at \$42,565.00, and recurring monthly costs at \$285.00. This translates to LNP cost per line per month, excluding transport, of \$3.10. (Bullock Ex. 2, Ex. R-1-TB; WWC Exhibit 15). While WWC had very minor cost disagreements with Mr. Bullock's estimates, the conclusion reached by both cost consultants was the same: "Faith is one of the companies that would have significant costs," and Faith's application for suspension of the requirement to implement LNP should be granted. (Tr. 933).

10. Golden West, Vivian, and Kadoka (TC04-045)

For this group of Petitioners, Mr. Bullock estimated the total non-recurring monthly costs (excluding transport) at \$233,468.00, and total recurring monthly costs (excluding transport) at \$5,400.00. (Bullock Ex. 3)<sup>4</sup> The most significant difference between WWC's cost estimates for Golden West, et al and Mr. Bullock's estimates is reflected in the "Switch Upgrade Costs" category. Mr. Bullock revised his switch upgrade cost based upon a price quote from Nortel (Bullock Ex. 3, WWC Exhibit 15). Without any justification other than it was a lower figure and the first one provided by Mr. Bullock in original Exhibit 1, Mr. Williams used Mr. Bullock's origi-

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<sup>4</sup> Mr. Bullock submitted a corrected Exhibit 3 to the Commission after the hearing to reflect several changes in information (Tr. 842), including corrected switch costs (Tr. 933). (Bullock Ex. 3)



nal switch upgrade cost estimate. (Tr. 934). Mr. Williams' estimate for LNP Query costs per month was actually higher than Mr. Bullock's figure, undoubtedly because Mr. Williams estimated 1076 ports per year, while Mr. Bullock estimated 240. Other differences were consistent with the other Petitioners, but overall, the cost differences, excluding transport, were not significant. (Tr. 934). Accordingly, the Commission should accept the cost estimates of Petitioner.

11. McCook (TC04-049)

For Petitioner McCook, Mr. Bullock estimated total non-recurring costs to implement LNP (excluding transport) at \$88,103.00, and total recurring monthly costs of \$1,502.00. This calculates to a per-line cost per month, excluding transport, of \$1.66. (Bullock Ex. 2, Ex. R-TB-1).

The most significant differences between Mr. Bullock's calculations of LNP costs for McCook and those of Mr. Williams are in the "Switch Upgrade Costs" category (\$26,400.00 versus \$17,152.00); and in the "Other Internal Costs" category (\$41,316.00 versus \$15,000.00). As noted previously, Mr. Bullock's calculation of Other Internal Costs for each company is based upon the "number of man hours that we estimate would be required in order to analyze and fill out the forms that companies receive from wireless carriers as part of the arrangement that must be established between companies in order to facilitate porting." (Tr. 851). Mr. Williams' figure of \$15,000.00, by contrast, is a "more or less nonarithmetic mean" arbitrarily "picked" by Mr. Williams. (Tr. 934). With regard to the Switch Upgrade Costs, Mr. Bullock's estimate is based upon an investigation of "the pricing policies of the individual switch manufacturers" utilized by McCook, i.e. Nortel. (Tr. 849). Mr. Williams merely adopted the Switch Upgrade Costs provided in Exhibit 1 attached to McCook's original Petition, without further verification. (Tr. 934). The balance of the cost differences, which are insignificant in amount, are the same as re-

flected in the preceding analyses. Petitioner's cost estimates are legitimate and clearly supported by the evidence.

12. Sioux Valley (TC04-044)

Mr. Bullock's calculation of the total non-recurring costs to implement LNP in Petitioner Sioux Valley's service areas is \$103,671.00, excluding transport. (Bullock Ex. 2, Ex. R-TB-1), while the total recurring monthly costs is \$1,933.00. Mr. Williams' estimates did not vary significantly in any cost category. Mr. Bullock included \$1,000.00 as the cost for SOA non-recurring set-up charge (Mr. Williams estimated 0 (WWC Exhibit 15)). The amount included by Mr. Bullock is based upon the registration fee charged for "SOA Option B," as explained in Bullock Ex. 1, page 19), and is certainly a justifiable cost. (Tr. 835; 895-898).

13. Tri-County (TC04-084)

Costs of implementation of LNP, even excluding transport costs, are very significant for this company. Mr. Bullock's estimates show total non-recurring costs of \$40,354.00, and total recurring monthly costs of \$429.00. (Bullock Ex. 2, Ex. R-TB-1). This calculates to a cost per line per month, excluding transport, of \$3.03. Even this, however, does not paint the entire cost picture for Tri-County which would have to replace its outdated DMS-10 switches to implement LNP. According to Mr. Bullock, the \$10,640 in switch upgrade costs reflected in the cost exhibit does not include the cost to replace the switches. Therefore, the actual cost associated with LNP would be much greater than that set forth in the cost exhibit. (Tr. 912-913)

Further testimony by Mr. Bullock emphasized the potential impact on Tri-County if the company is required to provide LNP:

Q. (By Ms. Ailts Wiest) For Tri-County you stated they needed a new switch . . . . .

A. . . . . I wanted to provide [that information] here so the Commission

so the Commission would have an understanding that in at least one case the cost of implementing LNP can go far beyond the costs of providing LNP as defined by the FCC's regulations in terms of cost recovery through the end-user charge.

It's not our position that this huge switch replacement cost is eligible to be included in an LNP end-user charge, but if Tri-County does not receive a suspension of the LNP requirements and Tri-County proceeds to implement LNP, they have to replace their switches, and it will cost them a lot of money to do that. (Tr. 917)

Mr. Williams' disputes of Tri-County's cost data pale to mere shadows in comparison to the costs facing Tri-County should the Commission not continue a suspension of Tri-County's requirement to implement LNP. The costs as estimated by Mr. Bullock and attributable just to LNP costs are very high, but the costs not even included on Mr. Bullock's estimate and not recoverable through any type of surcharge would be devastating to this small company, with only 447 access lines.

14. Valley (TC04-050)

Mr. Bullock submitted a revised cost exhibit for Valley after the hearing, because he learned during Mr. Oleson's testimony that there was a third wireless carrier in Valley's service area. (Tr. 835). According to the revised exhibit, Valley's total non-recurring costs (excluding transport) to provide LNP would be \$69,844.00, and total recurring monthly costs would be \$797.00. (Bullock Exhibit 3). Mr. Williams had very few disputes with Mr. Bullock's figures, and in fact estimated SOA monthly charges and LNP Query costs per month higher than did Mr. Bullock. Valley's estimated costs to implement LNP were basically not contested by WWC. (See WWC Exhibit 15).

Companies Represented by Dan Davis

Mr. Dan Davis of Telec Consulting Resources presented cost testimony on behalf of Kennebec Telephone Company (TC04-025); Midstate Communications, Inc. (TC04-052); Beres-

ford Municipal Telephone Company (TC04-048); Western Telephone Company (TC04-053), and RC Communications, Inc. and Roberts County Telephone Cooperative Association (TC04-056). (Tr. 989). Mr. Davis' summary of the cost calculations for the companies he represented states:

Each unique individual RLEC estimate reflects the cost of local number portability as calculated for each company. If the RLECs are not responsible for transport costs, which we contend that they are not, the estimate - or the estimated costs for local number portability range from a per-line per-month cost of \$1.15 for Midstate Communications to \$4.56 per line per month for Western Telephone Company.

If for some reason the RLECs would be financially responsible for transporting calls using DS-1 direct connections, the estimated costs range from a low of \$3.04 per line per month for Midstate Communications to \$11.58 per line per month for Kennebec Telephone Company.

The estimates are organized between one-time nonrecurring costs to implement local number portability and monthly recurring local number portability costs. (Tr. 992).

The overall non-recurring costs of deploying LNP for the Petitioners (excluding transport) is not really a point of significant controversy between Petitioners and WWC. As shown by Mr. Davis, for the companies for which he prepared the cost estimates, the overall nonrecurring cost for LNP is approximately \$519,000. In comparison, the estimated costs prepared by Mr. Williams for Western Wireless was approximately \$469,000. (Tr. 993).

15. Beresford (TC04-048)

For Beresford, Mr. Davis estimated non-recurring costs (excluding transport) of \$55,905.00, and total recurring monthly costs of \$578.00. (Davis Ex. 2, Ex. R-1). This calculates to an LNP cost per line per month (excluding transport) of \$1.27, compared to WWC's estimate of \$1.22. (WWC Exhibit 18). The only significant difference between these figures is found in the "Other Internal Costs" category. This point has already been addressed in this Brief

previously, but Mr. Davis further clarified the justification for his estimated company-specific costs of negotiating porting agreements with cellular providers, intercarrier porting forms and trading partner profiles. In response to questioning about economies of scale if companies “went together” on negotiations, Mr. Davis noted that his cost estimates in this regard did take into account economies of scale. “Three days per contract I assumed was fairly efficient.” (Tr. 1007). Mr. Williams conceded that his across-the-board \$15,000.00 figure was not “developed from Beresford’s internal structure.” (Tr. 1022). Mr. Williams’ small downward adjustment to monthly recurring costs results in calculations of how long it would take Beresford to port a number. Mr. Davis’s estimate is based on low demand and less proficiency with the porting process by Beresford’s employee(s).

16. Kennebec (TC04-025)

This small company of less than 800 access lines is another one that would experience dramatic economic consequences if ordered to implement LNP. Mr. Davis estimated total non-recurring costs of \$98,569.00, and total recurring costs of \$381.00. This translates to a per line per month cost of \$3.45, excluding transport. (Davis Exhibit 2, Exhibit R-1).

WWC disputed the switching costs for Kennebec, but the evidence clearly supported inclusion of these costs. Kennebec would not purchase the switch upgrade except to implement LNP, and LNP could not be implemented without purchase of a generic software upgrade. WWC Exhibit 16 is a letter from a switch vendor to Kennebec setting forth switch upgrade costs. In response to cross-examination by WWC’s attorney, Mr. Davis clearly articulated the necessity of the switch upgrade costs included in his cost estimates. (Tr. 999-1000).

Mr. Williams did not dispute that the switch software generic may need to be upgraded to support LNP. Nor did he dispute that in order to implement LNP, Kennebec would have to ex-

pend \$47,979 to get their generics up to a level to support LNP software. (Tr. 1025). Accordingly, the evidence clearly supports the cost estimates presented by Mr. Davis on behalf of Kennebec.

17. Midstate (TC04-052)

Mr. Davis's estimate of non-recurring costs for LNP implementation for Midstate was \$113,394.00, and \$2,288.00 for recurring monthly costs. (Davis Exhibit 2, Exhibit R-1). Again, the most controversial issue was in the Switch Upgrade Costs category. Mr. Williams' \$25,000.00 switching cost was based upon the mistaken assumption that switch translation costs were included in the per-line cost quote from Nortel. (Tr. 1026-1028). Mr. Davis corrected that mistaken assumption on redirect:

- A. (by Mr. Davis) \$29,000.00 . . . . . is what Nortel would charge Midstate on a per-equipped-line basis for the LNP software.

There was an additional charge . . . . . for switch translations. . . . . Switch translations is a function that is separate and apart from the Nortel pricing on the per-equipped-line basis and that is actually a price that Martin Group would charge Midstate on a per-switch basis for switch translations. It's not part of that activation fee that is waived. (Tr. 1038-1039).

Mr. Davis then concluded that the correct amount for Midstate's switching cost is approximately \$65,000.00. Mr. Davis also provided justification for his estimated costs in the non-recurring "Other Internal Costs" category. (Tr. 1039-1040).

The evidence clearly supports Mr. Davis's cost calculations for Midstate, as clarified at the hearing.

18. Western (TC04-053)

Of all the Petitioners requesting suspension of the requirement to provide LNP, Western's per-line costs are among the highest. Mr. Davis estimated total non-recurring costs (ex-

cluding transport) of \$176,780.00, and recurring monthly costs of \$419.00. (Davis Ex. 2, Ex. R-1). This calculates to a per-line per-month LNP cost, excluding transport, of \$3.97.

Western's situation is similar to that of Kennebec. Mr. Davis testified that "in order (for Western) to have the LNP functionality, they'd have to upgrade their switch." (Tr. 1005). The costs of the switch upgrade came from Western's engineering consultant. (Tr. 1005). While Mr. Williams included only \$45,987.00 for switch upgrade costs, he conceded that it would cost Western \$145,987.00 in switch upgrades to be LNP capable.

Q. You're not contending that they could provide LNP to their customers if ordered to do so by this Commission for \$45,987.00, are you?

A. No. Western's situation is similar to the Kennebec situation that we discussed . . . . I would not disagree that they would need to get their switch generics upgraded to support LNP implementation.

Q. And that would be a cost to Western Telephone Company; is that correct?

A. That's correct. (Tr. 1028)

Based on this undisputed and overwhelming cost evidence, Western Telephone Company's request for suspension of implementation of LNP should be granted.

#### 19. Roberts County/RC Communications (TC04-056)

Mr. Davis estimated non-recurring costs for LNP for Roberts County/RC at \$74,199.00, and recurring monthly costs at \$880.00, excluding transport. (Davis Ex. 2, Ex. R-1). This calculates to an LNP cost per line per month (excluding transport) of \$1.23. WWC's per line per month LNP cost for Roberts County/RC is \$1.05, which indicates very little difference between the parties' cost estimates. The most significant dispute is in the "Other Internal Costs" category. (Davis at \$22,319.00, Williams at \$15,000.00), and that difference has been discussed at

length above. All other costs are nearly identical. Accordingly, this Commission should accept Petitioner's cost estimates for Roberts County/RC as presented by Mr. Davis.

**B.**

PETITIONERS HAVE DEMONSTRATED THAT A SUSPENSION OR MODIFICATION OF THE LNP REQUIREMENT IS NECESSARY "TO AVOID IMPOSING A REQUIREMENT THAT IS UNDULY ECONOMICALLY BURDENSOME."

As shown, LNP implementation would result in the assessment of a new LNP surcharge on end users and could increase local rates. These actions would make Petitioners' service offerings less competitive with the services provided by wireless and other competitive carriers. In addition, if the total cost of LNP is assigned to Petitioners' subscribers through a surcharge and local rate increases, some segment of their subscribers may discontinue service or decrease the number of lines to which they subscribe. The resulting reduction in line count would increase further the per-subscriber cost of LNP, which, in turn, could lead to more rate increases followed by additional losses in lines. Ultimately, Petitioners may not be able to recover the costs of LNP from their subscribers, which would reduce the Petitioners' operating cash flow and profit margins.

It also is unduly economically burdensome to require Petitioners to implement LNP when a number of implementation issues are not resolved. It would be more efficient and less costly to implement LNP only once, after the LNP parameters are more certain, rather than require carriers to implement LNP when important issues are unresolved (such as whether a trunk connection will be required), or could be changed (such as whether the porting interval will be reduced).

Wireline to wireless porting under current routing protocols also would impose an unduly economically burdensome requirement by making the network less efficient and by confusing consumers which could result in reduced calling. If direct connections are not established, calls



to ported numbers will be routed to an interexchange carrier and the calling customer will incur a toll charge. The local exchange network also will be less efficient as a result of porting because end users who continue to dial a ported number on a seven-digit basis will likely receive a message that the call cannot be completed as dialed, or a message instructing the party to redial using 1+ the area code. Thus, callers would have to dial twice, with the resulting network use, to place one call.

### C.

#### PETITIONERS HAVE DEMONSTRATED THAT THE RESOLUTION OF OUTSTANDING ISSUES COULD INCREASE THE COST OF LNP.

In addition to the known costs of LNP, the Petitioners also presented evidence that there are a number of outstanding issues that could make the adverse economic impact of LNP on users of telecommunications services even greater and could make LNP even more unduly economically burdensome. For example, an industry advisory group recently recommended that the FCC reduce the porting interval to 2 days, and in a pending rulemaking proceeding the FCC is examining whether the current four-day porting interval for wireline carriers should be shortened, perhaps to match the wireless porting interval of 2.5 hours. A shorter porting interval will significantly increase the cost of LNP because more systems would have to be automated and more personnel would have to be hired to take and implement porting requests. (Davis Ex. 1 pp. 18, 19; ITC Ex. 3 p. 18; Brookings Ex. 3 pp. 18, 19; Stockholm Ex. 3 p. 19; Venture Ex. 3 pp. 18, 19; West River Ex. 3 p. 18; SDTA Ex. 1 pp. 15, 36; Tr. pp. 897, 898).

The Petitioners' cost exhibits also do not include the cost of implementing wireless to wireline porting, which is under consideration by the FCC. In this regard, the FCC has asked for comment on whether wireline carriers should be required to absorb the cost of providing a customer with a ported wireless number with the same local calling area as the customer received

from the wireless carrier and whether LECs should be required to provide LNP through foreign exchange (FX) and virtual FX service.<sup>5</sup> These proposals also would increase the cost of LNP, however, it is not clear to what extent.

Changes to the LNP requirements that would impose new LNP costs after Petitioners are required to implement LNP also will impose a requirement that is “unduly economically burdensome” because it is very likely that Petitioners would be unable to recover these costs. Under the current FCC rules pertaining to the establishment of a “monthly number-portability charge” the charge is to be “levelized” over five years, or in other words must remain constant over that period. There are no provisions in the FCC rule relating to LNP cost recovery (47 C.F.R. § 52.33) that permit revision to the established monthly number portability charge, should actual LNP related costs change over the 5 year period that the charge is to be in effect. Accordingly, the only means through which a revision to the charge can be obtained is to seek a waiver of the LNP cost recovery rule from the FCC, pursuant to the FCC’s general waiver authority found in 47 C.F.R. § 1.3. Under this rule provision, a waiver can only be obtained based on a showing of “good cause” and it requires a separate petition and a separate FCC process, outside of the FCC’s tariff filing procedures. With respect to obtaining waivers of the established LNP cost recovery rule provisions, the FCC recently commented on the issue in a decision addressing a request for declaratory ruling and/or waiver filed by BellSouth Corporation.<sup>6</sup> In that case, the BellSouth was granted a waiver to increase its end-user LNP charge, so that it could include in such charge the additional costs of implementing “intermodal” LNP. In granting this waiver, however, the FCC

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<sup>5</sup> It is not clear what “virtual FX” service would entail as the FCC did not define it and the Petitioners offer no such service.

<sup>6</sup> In the Matter of Telephone Number Portability, BellSouth Corporation Petition for Declaratory Ruling and/or Waiver, CC Docket No. 95-116, *Order*, FCC 04-91, released April 13, 2004.

signaled that it was not likely in the future that it would view such requests in a favorable manner. In its decision, the FCC stated:

. . . we expect that carriers implementing LNP in the future will include intermodal capability and there will be no need for staggered end-user charges. Thus, any incumbent LECs that have not filed tariffs for LNP cost recovery as of the release date of this order must comply with the five-year rule. In other words, once they have implemented number portability, these carriers should include the initial implementation costs of both wireline and intermodal LNP costs in any future tariff filing and recover costs over five years. Further, carriers who already have included intermodal costs in filed tariffs will not be eligible for additional recovery under a separate intermodal charge. . . .

In the Cost Recovery Order, the Commission discouraged carriers from attempting to raise their end-user charge. *Emphasis added.*

#### D.

#### THE UNRESOLVED ISSUE OF TRANSPORT RESPONSIBILITY FURTHER SUPPORTS MODIFICATION AND /OR SUSPENSION

The matter of transport responsibility is perhaps the most insidious aspect of LNP implementation before the Commission. The FCC's *November 10 Order* indicates that LNP implementation does not depend on the FCC's long-delayed resolution of this issue, but in a real-world sense, it is difficult to ignore when examining LNP costs.

The Petitioners' submit that the possible imposition of transport responsibility on them does nothing but further support their suspension and/or modification requests. It drives up costs, both to customers and/or the companies themselves (an issue left hanging by the FCC) and threatens to unravel an intercarrier compensation mechanism that has helped rural South Dakota to the forefront of modern telecommunications facilities and service.

Petitioners are confident that as this Commission considers the transport issue it will conclude as the Nebraska Commission recently has, that indirect connections are technically infeasible.

ble presently, and that the resulting costs “...would either be an additional significant adverse economic impact on end users or would be an economic burden on the local exchange carriers...” *Nebraska Order* at 7, 10-11.

The Petitioners’ cost exhibits contain estimates for the recurring and non-recurring cost of transport, which essentially is the cost of installing facilities to enable calls to ported numbers to be routed as local calls. It is undisputed that under current network configurations, a call originating on one of the Petitioner’s networks and terminating to a wireless carrier’s customer is routed to an interexchange carrier and is billed to the originating customer as a toll call, unless the wireless carrier has a direct connection with the Petitioner or it is part of an extended area service arrangement. It also is undisputed that there are very few direct connections between the Petitioners and the wireless carriers operating in their service areas, including Western Wireless. Thus, if no new transport facilities are installed, in many cases the only facilities currently available to route a call to a number ported to a wireless carrier will be interexchange facilities.

Further, Petitioners contend that they have no legal obligation to transport traffic to points beyond their service territories, whether the traffic is associated with a ported number or not. Under the provisions of 47 U.S.C. §251(c)(2)(B), incumbent LECs are required to provide interconnection only at a “technically feasible point within the carrier’s network.”

Western Wireless contends that, pursuant to the FCC’s *November 10 Order*, Petitioners have an obligation to transport traffic to a number ported to a wireless carrier as a local call even if the wireless carrier’s point of interconnection is located outside of a particular Petitioner’s service territory. In essence, Western Wireless argues that the FCC’s Order established a new routing obligation on rural incumbent LECs in connection with traffic to ported numbers.

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<sup>7</sup> *Id.* at pars. 16 and 17.

Western Wireless' argument clearly fails by the plain language of the *November 10 Order*. In its Order, the FCC acknowledged that LNP raised certain routing issues for rural carriers where no direct connection exists. The FCC, however, specifically found that these issues did not need to be resolved in the LNP proceeding. Rather, the FCC indicated that they would be addressed in a pending Petition for Declaratory Ruling filed by Sprint Corporation.<sup>8</sup> Therefore, it is clear that the question of whether Petitioners have an obligation to transport traffic to a wireless carrier as a local call, even if the wireless carrier's point of interconnection is located outside of a particular Petitioner's service territory, including traffic to a ported number, is pending at the FCC.

In addition, there is no language in the FCC's Order directing rural LECs to install new facilities to transport local calls. Rather, the FCC seems to assume, incorrectly, that existing facilities are sufficient. As testified to by Mr. Watkins:

the Nov. 10<sup>th</sup> Order does not automatically create service arrangements between the Petitioners and wireless carriers . . . [and further] does not clearly answer questions about the manner in which calls to ported numbers of mobile users will be treated from a service definition basis, how such calls will be transported to locations beyond the ILECs' service territories, and over what facilities these calls will be routed. (SDTA Ex. 1 p. 16).

Mr. Watkins further explained:

No LEC, including the Petitioners, has network arrangements for the delivery of local exchange service calls to, and the exchange of telecommunications with, carriers that operate at distant locations beyond the LEC's actual service area in which local exchange service calls originate, and there is no requirement for LECs to establish such extraordinary arrangements. LECs have no obligation to provide at the request of a wireless carrier, at additional costs and expense to the LEC, some extraordinary form of local exchange service calling beyond that which the LEC provides for any other local exchange service call." (*Id.*, p. 17).

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<sup>8</sup> In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs, CC-Docket 01-92, Petition of Sprint, May 9, 2002 (*Sprint Petition*).

The *Nov. 10<sup>th</sup> Order* neglects to address specific operational and network characteristics of the smaller LECs such as the Petitioners. . . . What the FCC fails to understand . . . is that calls routed outside of the Petitioners' local exchanges are routed to interexchange carriers (IXCs). Therefore they are routed and billed correctly as interexchange calls. The Petitioners do not have any obligation to provision local exchange carrier services that involve transport responsibility or network functions beyond their incumbent LEC service areas. . . . Furthermore, it is well settled that LECs interconnection obligations only pertain to their own networks, not to carriers' networks or to networks in areas beyond their own RLEC service areas. While the FCC has generally acknowledged a limitation on a Bell company to route calls no further than to a LATA boundary, the FCC's 10<sup>th</sup> Order apparently failed also to recognize that the Petitioners are physically and technically limited to transporting traffic to points of interconnection on their existing network that are no further than their existing service territory boundaries. . . . [T]elecommunications services provided to end users that involve transport responsibility to interconnection points with other carriers' networks at points beyond Petitioner's limited service area and network are generally provided by IXCs, not by the Petitioner LECs. (Tr. pp. 17, 18).<sup>9</sup>

Thus, it is clear that the arrangements necessary to route calls to ported numbers as local calls are not in place currently. Further, the record shows that there are a number of options that could be considered to address this issue. The methods contained in the record are briefly outlined below.

#### Petitioners' Methodologies

Based on the existing network configuration for the wireless carriers, the Petitioners (represented by cost consultant John De Witte) assumed a dedicated facility from each of Petitioners' rate centers to each wireless carrier, where the wireless carrier does not have a point of interconnection or numbers in the LEC's rate centers. This method is driven by the fact that to enable

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<sup>9</sup> Dan Davis, a witness for numerous Petitioners, in addressing the transport issues, expressed similar concerns, noting that "RLECs do not route local traffic to a point of interconnection outside of its local exchange or service area. Requiring RLECs to route traffic to a point of interconnection outside of its exchange or service area would

intermodal LNP on a level playing field (wireline to wireless and wireless to wireline), without separate transiting agreements in place, each CMRS carrier must obtain an NPA-NXX in each wireline rate center to accommodate proper rating and routing of calls. Thus, the cost exhibits for these Petitioners shows the estimated recurring and non-recurring cost of providing a DS-1 for Type 2B interconnection from each of Petitioners' rate centers to each of the wireless carriers. The record indicates that this methodology is, in fact, the current configuration used by the Parties. Thus, currently, calls to wireless carriers are routed as local calls when the wireless carrier establishes and pays for a direct connection to the Petitioner's switch. This configuration complies with the Interconnection Agreements recently entered into between Petitioners and Western Wireless. The transport facility pricing was based on firm, market-driven pricing from SDN Communications (SDN) for DS-1 circuits. Further, the record establishes that this configuration will work and will require no additional negotiated interconnection, transport or transiting agreements between the parties.

The methodology utilized by Mr. Davis and Mr. Bullock is similar in principle to that proposed by Mr. De Witte, however the actual implementation is slightly different. Messrs. Davis and Bullock calculated transport costs using a DS-1 direct connection from each host office location and from each stand-alone end office switch location to each wireless provider's point of interconnection. The traffic that originates from a remote switch was assumed to be transported on the same DS-1 as used by its host switch. The point of interconnection was assumed to be located at the nearest rate center in which a tandem was located. The calls to the ported numbers would then be carried over these DS-1s to a POI located within a Petitioner's service area or exchange, and the Petitioner would then connect with the wireless provider, who

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add the responsibility of a LEC from providing local exchange service and exchange access to providing interexchange service as well." (Tr. p. 994).

would then transport the calls back to its switch. For the group of companies represented by Mr. Davis, the assumption was made that there were only two wireless carriers. For Mr. Bullock's companies, the estimated number of wireless carriers varied from company to company.

This routing arrangement also is consistent with the Interconnection Agreements entered into between Western Wireless and the Petitioners. The cost is reliable because it is based on tariffed rates for T-1 circuits. Further, this configuration will work and it will allow the porting of numbers from wireless carriers to the Petitioners.

The transport costs estimated by Petitioners range from approximately \$0.20 to \$30.00 per line per month. Most of the Petitioners would see a per line increase of more than \$1.00 per month solely related to transport. Accordingly, it is clear that this issue could have a tremendous adverse impact on end-users and Petitioners.

#### Western Wireless' Methodology

Western Wireless criticized the transport proposals presented by Petitioners as inefficient. In the alternative, Western Wireless states that Petitioners should route calls to ported numbers to the Qwest tandem and, that Petitioners should pay for the network facilities and per call charges associated with this option. Although he admitted that this routing could require the Petitioners to route traffic outside their local exchange boundary or certificated area (Tr. p. 576), Mr. Williams stated that "local companies, since they are the originating carrier of a call to a ported number, do have an obligation to route that traffic to the designated routing location within the LATA." (Tr. p. 576). He was unwilling to accept that there should be any exceptions from such obligation, even for a company like Kennebec whose service area is located approximately 180 miles from the Qwest tandem in Sioux Falls. (Tr. pp. 576, 577).<sup>10</sup>

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<sup>10</sup> It would appear that Western Wireless' transport proposal, given the company's insistence on imposing the transport costs on Petitioners, is contrary to existing FCC and court decisions. The FCC and the courts have stated that



There are a number of problems with the Western Wireless proposal. First, Western Wireless assumed that existing one-way facilities with Qwest could be converted to two-way facilities; that Qwest would agree to convert the facilities at a specified cost; and that Qwest would charge a specified cost for transiting traffic. However, Qwest is not a party to this proceeding and there is no evidence that it would agree to these terms.

Second, Western Wireless completely ignores the numerous regulatory, policy and business issues that would arise with a “Qwest tandem” option as well as the very real impacts that landline LECs will experience if the transport issues are not resolved in a fair manner. Some of these issues were summarized by Mr. Bullock during the hearing when he described the advantages of not using a tandem option as follows:

The first one is if you don’t go through a tandem switch, whether it’s Qwest or SDN or somebody else, you’re eliminating a potential point of failure. If you direct connect – if you connect directly to the wireless carrier’s switch, you’re going to establish an operationally more reliable connection. (Tr. 857-858)

Mr. Bullock further stated that:

circuits that come into the ILEC network – I should say trunk links that are established to the ILEC network directly from the individual wireless carriers can be more easily monitored for call detail and billing purposes. Whether you’re billing one way or the other way, you know who your trunk link is connected to, as opposed to going through a tandem there’s a possibility that you might lose

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a LEC is free to treat as interexchange service any call to a point of interconnection that is beyond the local calling area of the originating LEC end user. *See e.g. Memorandum Opinion and Order, In the Matter of TSR Wireless, L.L.C., et al. v. US West Communications, Inc. et al.*, released June 21, 2000, in File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18 at para. 31, affirmed *Qwest Corporation vs. FCC*, 252 F. 3<sup>rd</sup> 462 (D.C. Cir. 2001); *See also Mountain Communications, Inc. v. Qwest Communications, FCC 02-220, Order on Review*, July 25, 2002, para. 6, vacated in part and remanded, *Mountain Communications v. FCC*, 355 F. 3<sup>rd</sup> 644, 647 (D.C. Cir. 2004) wherein the Court of Appeals recognized that LECs may treat as toll calls any call to a mobile user that must be delivered to an interconnection point beyond the normal local calling area.

Toll calls are transported by interexchange carriers, toll calls are interexchange service. Petitioners, as rural LECs, hand off toll calls to competing interexchange carriers consistent with the equal access requirements. There is no requirement for a LEC to deliver local exchange service calls to some distant point or to the “terminating carrier’s switch” when that switch is beyond the local calling area and beyond the point that a LEC transports any other local exchange service call.

some information that reveals the identity of where the traffic is coming from. (Tr. 857-858).

Third, contrary to the perception that Western Wireless wants to create, the transport issue is not a simple one and depending on how it is resolved the financial impact on rural LEC operations could be very substantial. Randy Houdek, general manager of Venture Communications Cooperative, offered considerable testimony concerning the transport issues and how they may affect his cooperative. He indicated that the transport issue is a “huge” issue for Venture, and explained that Western Wireless’ proposal for transport would not only make his company responsible for the costs of transport to the Qwest access tandem, but that it would also, by allowing for a bypass of the existing toll network, affect his company’s access and toll revenues. (Tr. pp. 385, 391, 425, 399, 400, 405, 406, 413, 414, 422). This would be in addition to the increase in Venture’s local service rates caused by the direct costs of LNP. According to Mr. Houdek, “the downstream effects of what it will do to access, what it will do to my toll revenues, the impact it will have on my local service it will be in excess of \$3 million.” (Tr. pp. 424). If rural carriers, with their limited service areas, are ultimately forced to bear the burden of transporting landline calls to ported wireless numbers to a serving LATA tandem and are forced to exchange these calls with Western Wireless and all other wireless carriers as local calls, the impacts will be “huge” for all of the Petitioners. (Tr. pp. 204, 478).

The testimony of John DeWitte, on behalf of a number of the Petitioners, confirms that many items must be considered in addressing the transport issues. In referencing the Western Wireless proposal, he noted that utilizing the existing Qwest facilities for traffic destined to ported numbers is not that “simple.” Rather, “an extremely complex analysis . . . would have to be done to determine whether it’s even a viable solution.” (Tr. 266, 267). As part of that analysis, the fact that incumbent LECs are not obligated to transport outside of their service area

would have to be taken into account. (Tr. pp. 269, 279, 269) And also, impacts on “settlements” or separations, toll revenues, other revenues, and toll billing practices would have to be considered. (Tr. pp. 266, 272-274, 482).

Western Wireless attempts to downplay the impacts of its transport proposal, but it would have far reaching impacts on all landline LECs. Not only would there be additional direct costs associated with LNP implementation, there also would be impacts on other LEC revenues. If the traffic to ported numbers is considered local the LEC minutes flowing through the separations process utilized to establish federal and state access rates will be affected. There would be a resulting increase in local traffic and this increase would translate into a greater shift of cost recovery to the intrastate jurisdictions. This in turn would require higher local exchange service rates and/or intrastate access rates. In addition, if the traffic is considered local and not subject to access charges, customers would be encouraged to bypass to an even greater extent the current landline toll network. This increased bypass would lead to fewer access minutes and higher intrastate access charges. The business of landline toll carriers competing also would be impacted. If landline to landline calls moving from one landline local calling area to another landline are considered toll, but landline to wireless calls are not, landline long distance companies are tremendously disadvantaged. There undoubtedly would be a negative impact on landline carriers’ toll revenues.

Western Wireless suggested at the hearing that the impact of its transport proposal would be small because of the small number of expected calls to ported numbers. However, while the number of calls to ported numbers (served by wireless carriers) is expected to be small given the lack of demand for intermodal LNP, this is a fraction of the total traffic that is at stake. Thus, any decision imposing transport responsibilities on rural LECs beyond their existing network

would impact all traffic—including calls to wireless users who do not have a ported number, calls to CLECs, and calls to Qwest customers. Mr. Bullock commented on this particular concern in his testimony. He stated:

I think it is particularly important, at this time [and] I think it's safe to say that nobody can predict the volume of traffic that we're going to see between wireless carriers and rural ILECs. We were talking about the example here of LNP generated traffic. It's quite conceivable that there could be more. If we use this thing as kind of a precedent, there's no telling what could happen. And so assuming that the only traffic that we're talking about that might be [exchanged] between wireless and wireline carriers on a local basis where there's no interexchange carrier, assuming that that level of traffic is going to only the level of traffic attributable to delivering calls to ported numbers is a faulty assumption. *Emphasis added.* (Tr. pp. 857, 858).<sup>11</sup>

#### Other Methodologies

A number of other transport options also were discussed at the hearing. For example, Western Wireless is negotiating settlement agreements with James Valley and CRST in which Western Wireless will pay most, if not all, of the cost of new transport facilities and the LECs will not be required to transport calls to ported numbers beyond their service territory. Also on record there was some discussion as to whether SDN could be a tandem provider for traffic to ported numbers instead of Qwest. This proposal suffers from some of the same problems as the Qwest proposal, however, in that SDN is not a party to this proceeding; it is not known if SDN would be interested in acting as a tandem provider; and it is not known what rate SDN would charge.

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<sup>11</sup> As indicated by the testimony of Mr. Watkins, Petitioners believe that Western Wireless in these LNP proceedings may be primarily interested in burdening the rural LECs with "extraordinary and unfair transport obligations . . . beyond those that actually apply." (SDTA Ex. 2 p. 4). "It appears even that the wireless carriers' interest in these issues may have more to do with transferring that responsibility of transporting local calls beyond the small and

### Study Group Proposal

At the hearing, the Commission asked the parties if they would participate in a study group to examine the transport issue and possible alternatives. Given the complexity of the issue; the number of possible options; and the huge potential impact of the issue, Petitioners agree that a study group would be an appropriate mechanism to consider this issue. Accordingly, Petitioners urge the Commission to grant Petitioners a suspension of LNP until a study group can be convened and its findings on the transport issue reviewed.

E.

#### GRANT OF THE REQUESTED SUSPENSIONS/MODIFICATIONS IS CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY

In addition to meeting at least one of the criteria listed in 47 U.S.C. § 251(f)(2)(A) relating to adverse economic impacts or technical infeasibility, in order for any request for LNP suspension and/or modification to be granted, it must be “consistent with the public interest, convenience and necessity.” 47 U.S.C. § 251(f)(2)(B). As testified to by Petitioners’ and SDTA’s witness, Steven E. Watkins, a determination of the public interest inherently involves a cost/benefit analysis. The determination of the public interest “should involve an evaluation of the cost of LNP implementation and operation compared to the benefits that LNP implementation would present for consumers.” (SDTA Ex. 1 p. 8, Tr. pp. 497-505).<sup>12</sup>

Petitioners believe that the evidence presented in this matter leaves no doubt that the public interest will be served by granting the requested LNP suspensions. Fundamental to any analysis of LNP benefit is an assessment of demand for the service. It is clear from the record in

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rural LECs’ service areas, more to do with that than LNP.” (Tr. p. 501; See also Mr. Houdek testimony, Tr. pp. 405, 406).

<sup>12</sup> It appears that the necessity to weigh cost vs. benefit as part of the public interest analysis is not challenged by Western Wireless. Mr. Williams expressly referenced in his testimony that the public interest standard is about

this matter that there is little, if any, demand for intermodal LNP from Petitioners' end-user subscribers. In addition, in evaluating the costs of LNP, it is strikingly apparent from the record that there are a number of substantial issues related to the provisioning of LNP that have not yet been resolved by the FCC and that the resolution of these issues will impact LNP implementation costs. Given these unresolved issues, the Commission cannot quantify at this time the total costs of LNP implementation nor, in turn, either reasonably or reliably fully evaluate end-user and/or rural carrier impacts.

Under these circumstances, given the almost complete lack of demand for intermodal LNP in the Petitioners' service areas, and taking into account the significant unresolved issues relating to LNP that will affect LNP implementation costs, Petitioners believe there is no other justifiable result than to grant the LNP suspension petitions. As testified to by Mr. Watkins, "the Commission should extend the current interim suspension of the LNP requirements for the Petitioners until the conditions confronting the Petitioners . . . have changed such that the per-line cost of LNP is more reasonable compared to whatever demand, if any, may exist. . . [And] any consideration under the criteria of Section 251(b)(2) cannot occur until after the issues pending before the Courts and the FCC related to the apparent directives contained in the FCC's November 10, 2003 Order on LNP (*November 10 Order*) are fully resolved, including any further and final disposition of the remaining rulemaking issues and the resolution of the routing issues that the FCC explicitly has left to be resolved later." (SDTA Ex. 1, p. 6).

There is overwhelming evidence in the record to support an affirmative public interest finding with respect to each of the LNP suspension petitions. A finding that the suspensions are in the public interest is supported by the following:

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"cost" and "benefit" and that it's also about "from a company perspective, revenue and financial wherewithal." (Tr. 562).

## 1. THERE IS A LACK OF CONSUMER DEMAND FOR LNP

Central to the evaluation of whether consumers will benefit from the implementation of LNP is the level of demand for LNP in Petitioners' service areas. (SDTA Ex. 1 p. 10). Regarding demand for LNP, substantial evidence was presented by Petitioners' witnesses that shows that demand for the service is almost non-existent. Mr. Watkins supplied evidence regarding the demand for intermodal number portability in those areas where intermodal LNP has already been implemented, and indicated that there appears to be very little demand from wireline customers to port their numbers to wireless carriers. According to Mr. Watkins, "the vast majority of wireless ports appear to be from one wireless carrier to another. . . . the demand for wireline-to-wireless porting for the non-rural, large local exchange carriers has been small." (SDTA Ex. 1 p. 10). Mr. Watkins presented information from recent FCC press releases, "Communications Daily" and from various other telecommunications industry publications supporting the conclusion that, at the present time, end-user customers do not have much interest in porting their wireline number to a wireless phone. He noted that this lack of interest in wireline-to-wireless porting is probably due to the fact that wireline and wireless services are viewed more as "complementary" and not "substitute" or "replacement" type services. (SDTA Ex. 1 pp. 12-15). He also explained that the interest in rural areas for wireline-to-wireless porting is likely to be even less than in the more urban, top 100 MSAs, because of the fact that wireless service is "less ubiquitous in rural areas, and landline users would be more reluctant to abandon dependable wireline service for a wireless service of less certainty." (SDTA Ex. 1 p. 11; Tr. 499, 500).

The testimony provided by the Petitioners' general managers confirms that there is no demand for LNP. (Tr. 43, 294, 344, 360, 414, 429, 446, 770-772, 806, 814, 822, 825, 949, 957, 969, 982, 1044, 1045; Santel Ex. 1, p. 3). Among the general managers testifying, only three,

Jerry Heiberger, James Adkins, and Steve Oleson, indicated that their company had received a customer inquiry and/or request regarding LNP as a service. Mr. Heiberger and Mr. Oleson indicated that their company had received only one inquiry and/or request, and Mr. Adkins indicated that Brookings Municipal Telephone had, to date, received only two requests or inquiries. (Tr. 43, 106, 294, and 748). Rod Bowar, testifying as general manager for Kennebec Telephone Company, presented more specific information on the issue of consumer demand for LNP, noting that his company had conducted a survey of its local exchange service subscribers. (Tr. 949). He referenced that survey and indicated that the results overwhelmingly indicate that a majority of customers in his service area “do not want to pay for LNP at any price.” He indicated that his survey showed that 73 percent of the survey respondents had a wireless phone, but only 2.6% of the total survey respondents would be willing to pay a surcharge of \$2.00 for the LNP service. (Tr. 957). If the LNP surcharge were established at \$3.00, only 1.6% of the responding customers indicated they would want the service. (Kennebec Ex. 1 p. 3). He further noted that the age of Kennebec’s subscribers is older than the nationwide average, that the average income is lower than the nationwide average and that requiring LNP “would make . . . older customers on fixed incomes pay for a service that they will not use and are not requesting.” According to Mr. Bowar, the “[b]ottom line [is], LNP implementation would have an extreme adverse impact with little or no benefit.” (Tr. 949).

On the other hand, Midcontinent did not present any evidence concerning demand for wireline LNP and Western Wireless’ witness, Ron Williams, did not present any empirical data indicating that there is any present demand for the deployment of intermodal LNP in the rural service areas in South Dakota. Western Wireless introduced a document captioned “Survey of Rural Consumers- Western Wireless Markets,” but that exhibit includes no information specific



to the demand for LNP. (Western Wireless Ex. 11). For instance, although information is presented as to the number of consumers within the surveyed group that would be willing to substitute their landline service with wireless service, there is nothing in the document bearing upon LNP. (Tr. 645). The document is also based on a survey of 1,000 customers throughout Western Wireless' service area covering 19 states but is not specific to the Petitioners' rural service areas. (Tr. 545). Western Wireless also submitted its Exhibit No. 13, a "2004 Rural Youth Telecommunications Survey" conducted by the National Telecommunications Cooperative Association (NTCA) and the Foundation for Rural Service. (Tr. 691). This document is similarly deficient. It is a nationwide survey and, as admitted by Mr. Williams, is not specific to LNP. It speaks merely to general technology concerns of rural telephone companies as those concerns relate to the youth market. (Tr. 730).

As part of its evaluation of Petitioners' LNP costs, in particular recurring costs, Western Wireless included certain port projections. The record shows, however, that these port projections are purely speculative and that they are not relevant to actually determining what level of demand (if any) exists for the LNP service. Mr. Williams indicated that the port volumes used by Western Wireless were developed internally by the company -- that they were based on internal "forecasts" or "projections" (Tr. 606, 608, 644, 645, 690, 691, 929, 1023). He indicated that they are only "estimates," and explained that the port volume numbers were arrived at by taking an "estimate based on Western's belief of the volume of port activity it would see from these companies, and then [by dividing] . . . that number by what we believe our market share to be to get a total intermodal porting estimate." (Tr. 1023, 1024).<sup>13</sup>

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<sup>13</sup> In regard to these port projections, Mr. Williams testified that most of them come in around a "3 percent per year range which is similar to the . . . line loss experience that we've seen in competitive markets when LNP has been implemented on a wireline to wireline basis." (Tr. 645). Further, with respect to the Faith Municipal Telephone Company, the cost exhibit and related testimony provided by Mr. Williams projects, as previously discussed, the

The evidence presented thus clearly establishes a lack of demand in rural areas for LNP. Accordingly, and as SDTA witness Watkins testified, there is “no policy balance between the substantial costs that would be imposed on the public and the potential benefits of LNP in the rural areas of South Dakota.” (SDTA Ex. 1, p. 6). Further, “the cost to implement LNP in the rural exchanges of the Petitioners is significant and would lead to explicit surcharges and other potential rate increases to the rural users beyond that which would be balanced with any benefit to be derived by the small number, if any, of users that may actually seek to port their wireline service telephone numbers. Accordingly, suspension of the LNP requirements would avoid these burdens consistent with the public interest, convenience, and necessity.” (*Id.*, p. 5).

2. GIVEN THE LACK OF CONSUMER DEMAND, RURAL LEC RESOURCES SHOULD NOT BE DIVERTED TO LNP IMPLEMENTATION.

As expressed by Mr. Watkins, “it is not in the public interest for society, and particularly the rural subscribers of Petitioners, to incur the cost of implementing LNP and to divert the limited resources of Petitioners which are already challenged by their service to sparsely populated areas and relatively lower income customers, for such small, if any, demand and such a speculative and abstract objective.” (SDTA Ex. 1, p. 15). Many general managers expressed similar concerns. Specifically, they indicated opposition to being forced to commit human resources and company dollars towards LNP, and away from other company projects, such as the continued deployment of broadband services. (Tr. 349, 357, 360, 1098, 1099, 1107, 1108, 1109, 1111). This concern arises from their understanding that there is little customer interest in LNP, but significant interest in broadband services.

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number of ports for the company (over the next five years) at zero. This information presented by Western Wireless provides further evidence supporting Petitioners’ claims that there is little, if any, current demand for the LNP service by consumers.

Testimony also was provided concerning the demographics of the rural service areas of Petitioners. In general, the Petitioners provide service to an aging population and, in many cases, to consumers falling on the lower end of the income scale. Because of the older than average age of consumers in the rural areas, many of the consumers are on fixed incomes. (Kennebec Ex. 1 p. 5; Tr.. 1110, 1111).

It is important to keep these demographics in mind in reviewing LNP implementation under the public interest standard. As indicated by Gene Kroell, Santel's general manager, customers in his area are concerned about additional surcharges on their telephone bills. He indicated that his company had received hundreds of telephone calls from these customers when the "end user charge was raised to \$6.50 about a year ago."<sup>14</sup> He also indicated that the population of Sanborn County is ranked fourth in the state on the poverty scale and that Hanson County is ranked third. (Tr.. 1111). Further, he pointed out that Hutchinson County, served by Santel, has more people per capita that are 85 years and older than any other county in the State. (Tr.. 1111).

These demographics indicate that subscribers will have a difficult time paying higher telephone bills and, consequently, it is essential that this Commission recognize the present lack of demand for LNP. All of the Petitioners are rural LECs and all of them face similar challenges in providing state-of-the-art, affordable telecommunications services throughout their service areas. Substantial evidence was presented indicating that broadband services such as DSL are of much greater importance to end-users in the Petitioners' rural service areas than intermodal LNP. (Tr.. 349, 357, 360, 1098, 1099, 1107, 1108, 1109, 1111; Santel Ex. 1, p. 3). All of the Petition-

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<sup>14</sup> This reference relates to the increase in the "subscriber line charge" (SLC) from \$6.00 to \$6.50 on July 1, 2003, pursuant to the FCC's *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256*, In the Matter of the Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.

ers are involved in upgrade plans to expand broadband availability within their service areas and very clearly “any amount of capital investment that is diverted to the implementation of LNP will reduce needed capital from broadband investments.” (Santel Ex. 1, p. 3).

Considerable evidence was presented indicating that broadband deployments would be impacted if the requested LNP suspensions are not granted. These impacts provide further good reason for finding that granting the requests would be in the public interest consistent with 47 U.S.C. § 215(f)(2)(B). Petitioners should not be forced to incur substantial costs and to redirect their limited resources into the provisioning of an unwanted, and unnecessary, service.

3. GIVEN THE CURRENT LACK OF DEMAND, THE ASSESSMENT OF A LNP SURCHARGE ON REMAINING LANDLINE CUSTOMERS IS ALSO CONTRARY TO THE PUBLIC INTEREST.

As pointed out by a number of witnesses during the hearing, there are also concerns with LNP implementation because of the current method prescribed for the recovery of carrier-specific costs directly related to providing LNP. (Tr. 297, 324, 444, 445; SDTA Ex. 1, p. 9). Pursuant to the FCC’s rules, incumbent local exchange carriers implementing LNP are directed to recover “specific costs directly related to providing long-term number portability” by establishing a “monthly number-portability charge” that is charged to its end-users on a per-line basis (excluding lines provided to customers on Lifeline Assistance). 47 C.F.R. § 52.33. Under present day circumstances, where there is little, if any, demand for intermodal LNP, this prescribed cost recovery method gives rise to other public interest related concerns. As Mr. Watkins testified, the surcharges and potential basic rate increases that would be necessary for Petitioners to recover the costs of LNP implementation are not consistent with “cost causer principles”. This presents an extreme irony: “The very few customers that may want to port their wireline number from Petitioners to another carrier’s service, such as a wireless carrier’s service, will no longer be customers of the Petitioners. The vast majority of Petitioners’ end users that remain will

shoulder the charges and costs to the benefit of only a handful of users that are no longer customers of the LEC. The vast majority of customers that do not want to port will be forced to foot the bill for the very few that do.” (SDTA Ex. 1, p. 9).

This method of cost recovery is especially unfair if the demand for the service is almost non-existent, as with intermodal LNP. Why should all customers be forced to pay for a service that will only bring benefit to a few individuals? Arguably, there may be justification for socializing the cost recovery method and recouping costs from most, if not all telecommunications end users, where demand for the service is prevalent. But, if this is not in fact the case, the assessment of charges on customers who do not use and thus do not benefit from the service is particularly unfair. It is plainly contrary to the “public interest.”

Moreover, it should be remembered that the FCC departed from the cost-causer method of cost recovery in the case of LNP because, theoretically, all carriers and customers would be able to benefit from LNP. Therefore, the FCC reasoned, each carrier should be responsible for its own implementation costs. This is not the case with intermodal LNP for Petitioners, however. As previously discussed, wireless to wireline porting will not be available because, in most cases, the rate centers of wireless carriers do not match the rate centers of Petitioners. Thus, the mutual benefit upon which the FCC relied to justify departure from cost causer principles does not exist for Petitioners.

#### 4. GENERAL CLAIMS THAT IMPLEMENTING LNP WILL PROMOTE GREATER COMPETITION AND CONSUMER CHOICE ARE INSUFFICIENT.

Both Western Wireless and Midcontinent contend that implementing LNP is necessary to promote further competition in the Petitioners’ rural service areas and to bring consumers greater choice. (Midcontinent Ex. 1, pp. 3, 4; Western Wireless Ex. 1, pp. 23, 25, 26). Such general claims of competitive benefits are not sufficient to override the intended purposes of Section

251(f)(2). Although one purpose of the Telecommunications Act of 1996 was to promote competition for local exchange services, a second primary purpose was to protect universal service and the provisions of Section 251(f)(2) were clearly put into the Act for that reason. State Commissions are specifically given authority under Section 251(f)(2) to suspend and/or modify any of the requirements contained in §§ 251(b) and 251(c) of the Act (including interconnection and other service requirements that were specifically imposed for the purpose of promoting local service competition). Indeed, the very purpose of the suspension and modification provisions contained in Section 251(f)(2) is to allow state commissions to override, in effect, rules related to competition. This being the case, it is obviously insufficient, for purposes of addressing Section 251(f)(2)'s public interest standard, to claim that the implementation of LNP is necessary to promote competition.

There is also no reason to conclude that benefits would result in bringing consumers greater choice, because as noted above, there currently is no consumer demand for the LNP service. Simply put, diverting carrier resources in order to bring consumers a choice they do not want does not benefit consumers.<sup>15</sup>

Furthermore, even though claims are made by Western Wireless that the provisioning of LNP by the rural carriers is necessary to enhance competition, there is other evidence to the contrary. The record reflects, for instance, that Western Wireless is already competing in the Petitioners' service areas without LNP. (Tr. 568, 640, 641, 644) And, as indicated by the testimony

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<sup>15</sup> The previously referenced decision of the Nebraska Public Service Commission, which granted a LNP suspension until January 20, 2006 to many of Nebraska's rural local exchange carriers, includes findings addressing the claims made by Western Wireless that LNP is necessary to provide greater choice. In that decision, the Nebraska PSC noted that "Mr. Williams testified that public interest means consumer choice and that LNP is about elimination of a barrier for consumer choice." In response, the Nebraska PSC concluded: "While the Commission acknowledges that introduction of competition into telecommunications markets is a key policy of the 1996 Telecommunications Act, without any evidence that demand for intermodal LNP exists and thus, that consumer choice is being thwarted, this Commission must assign greater weight to another Congressional policy of the Act." See, *Nebraska Order*, page 14.

of Mr. Adkins of Swiftel, Western Wireless is competing successfully. He indicated that Swiftel already has seen a significant migration of customers from wireline to wireless. (Tr. 311). Over the last three years, as a result of college students moving from wireline to wireless, the company's access line count has gone down approximately 1,200 phone lines. This illustrates, as pointed out by Mr. Adkins, "that what we have is pretty fair competition without local number portability." (Tr. p. 312). With respect to the claimed advantages of LNP, as further commented on by Mr. Adkins, "in an environment where competition is being served, the customers are, in fact, migrating as they desire from wireline to wireless . . . to say that they would be advantaged when you look at the cost to provide that small advantage, it certainly doesn't seem to . . . it certainly doesn't seem to pass muster on the benefit ratio." (Tr. 312).

It is also clear, and as has been noted previously, that Western Wireless itself is a new and, perhaps, disingenuous, advocate of the position that LNP is necessary to promote competition between wireless and wireline providers. As Mr. Watkins testified, "Western Wireless has also previously concluded in comments filed with the Federal Communications Commission (FCC) that 'LNP is unnecessary to further competition.' Reply Comments of Western Wireless filed October 21, 2001, in WT Docket No. 01-184 at pp. 2-5 . . . Western Wireless noted that, as a provider of conventional cellular and wireless local loop services, 'Western is making significant inroads competing against wireline service providers – without offering LNP.'" Western Wireless went on to state that "there is no evidence to suggest that the inability of CMRS customers to port their numbers is an impediment to changing service providers."

Thus, contrary to the general claims made by both Midcontinent and Western Wireless, there is absolutely no evidence on the record that any measurable public benefit will be facilitated by LNP implementation. There is no consumer demand for the service

and, as a result, forced implementation of LNP would only result in substantial additional costs and charges without any corresponding consumer benefit.<sup>16</sup>

5. IF THE FCC SHORTENS THE “PORTING INTERVAL” THIS WILL ALSO INCREASE LNP IMPLEMENTATION COSTS.

Along with its *Nov. 10<sup>th</sup> Order*, the FCC issued a Further Notice of Proposed Rulemaking on a number of issues including the issue of whether the current established “porting interval” should be reduced and also issues related to the porting of telephone numbers from wireless-to-wireline.<sup>17</sup> Specifically, regarding the porting interval, the FNPR seeks comment on whether the FCC should “reduce the current wireline four business day porting interval for intermodal porting.”<sup>18</sup> In seeking these comments, reference was made in the FNPR to the intention of wireless carriers to complete their “intramodal wireless ports” within two and one-half hours, which raises concerns among landline LECs that the current four day porting interval could be shortened considerably.

As testified to by a number of Petitioners’ witnesses, if the FCC proceeds under its pending FNPR to reduce the porting interval from the current four day interval there will be an impact on LNP implementation costs, and in many cases this impact would be substantial. (Davis Ex. 1 pp. 18, 19; ITC Ex. 3 p. 18; Brookings Ex. 3 pp. 18, 19; Stockholm Ex. 3 p. 19; Venture Ex. 3 pp. 18, 19; West River Ex. 3 p. 18; SDTA Ex. 1 pp. 15, 36; Tr. pp. 897, 898). Thus, the costs differences are significant between the costs that are necessary to implement a “manual” vs. “automated” service order administration (“SOA”) process. Moreover, the prospect of some future decision by the FCC causes Petitioners to be concerned, because under the current FCC

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<sup>16</sup> Mr. Williams also claimed that the absence of LNP also affects wireless-to-wireless ports, specifically alleging that the benefits of wireless-to-wireless porting may be lessened if LNP is not ordered. (Tr. 562). In later questioning regarding these alleged impacts, however, Mr. Williams indicated that the particular problem (associated with routing calls from landline to wireless customers who have a ported number) was already being addressed by Western Wireless through its provisioning of a “default query service.” (Tr. 599).



rules pertaining to the establishment of a “monthly number-portability charge” the charge is to be “levelized” over five years, or in other words must remain constant over that period. As previously discussed, there are no provisions in the FCC rule relating to LNP cost recovery (47 C.F.R. § 52.33) that permit revision to the established monthly number portability charge, should actual LNP related costs change over the 5 year period that the charge is to be in effect and the FCC has indicated that waivers will not be forthcoming easily.

It is obvious from the foregoing that revising end-user LNP surcharges after they have been established would be problematic; it is also very possible that the FCC will reduce the current porting interval; and that this will affect costs to be incurred by Petitioners in their provisioning of the LNP service. This additional uncertainty related to the pending “porting interval” issue also supports and affirmative public interest finding pursuant to 47 U.S.C. § 251(f)(2).

6. THE FCC’S FAILURE TO ADDRESS WIRELESS-TO-WIRELINE PORTING ISSUES IN CONJUNCTION WITH ORDERING WIRELINE-TO-WIRELESS PORTING SHOULD ALSO BE CONSIDERED.

In addition to not addressing the pending porting interval issue in its *November 10 Order*, the FCC also left to another day issues needing to be resolved in order to implement wireless-to-wireline porting capabilities. Like the porting interval issue, various issues related to wireless-to-wireline porting were noticed for comment as part of the FNPR issued along with the *November 10 Order*. In implementing intermodal LNP, wireline-to-wireless, but not at the same time requiring under similar circumstances the porting of numbers from wireless-to-wireline, the FCC has established what amounts to a “one-way” porting environment.

As testified to by Mr. Watkins:

The manner in which the FCC put in place intermodal porting, inconsistent with the reports of the industry workgroup that had been

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<sup>17</sup> *Nov. 10<sup>th</sup> Order*, FCC 03-284, at pars. 41 thru 51.

<sup>18</sup> *Id.* at par. 49.

charged with examining the intermodal issues, means that there is an extreme disparity between wireline-to-wireless opportunities to port versus wireless-to-wireline. Therefore, for the most part, Petitioners will be able to lose customers if LNP is implemented, but will not be able to get them back. The necessary methods and rules to allow wireless-to wireline porting that would be competitively fair are the subject of a further rulemaking proceeding before the FCC with no apparent resolution of the geographic disparity issues that are at the root of the issues. . . . In the meantime, a competitively unfair version of intermodal LNP is in place. (SDTA Ex. 1 pp. 9, 10)

Petitioners strongly urge this Commission to keep the above described competitive unfairness in mind in reviewing the requested LNP suspensions. Under the version of intermodal LNP ordered by the FCC, there is absolutely no upside for the rural LECs. The Petitioners are faced with losing local service customers and must expend substantial additional dollars to facilitate this loss. Such a result can only have negative impacts and will only serve to increase local service rates for most rural consumers and harm universal service efforts. (Tr. pp. 297, 303, 304, 364, 365, 378, 399, 400, 445, 503, 511, 514).

#### **IV.**

#### **CONCLUSION AND SUMMARY OF REQUESTED RELIEF**

As this brief and the record demonstrate, LNP deployment in South Dakota is an expensive solution in search of a problem. Western Wireless has defined the “problem” as the need to better compete in the local exchange market. Yet, the record clearly demonstrates (e.g., testimony of Brookings’ witness, Mr. Adkins) that wireless companies are winning customers away from rural ILECs without LNP. And, for the vast majority of rural customers, whose telephone company managers testified at the hearing, LNP is a service they simply do not want. As this brief has discussed earlier, wireless services in South Dakota complement, rather than replace, wireline service and logically so, given the poor coverage afforded by wireless carriers.

Against such modest advantages of LNP are arrayed its considerable costs. The costs of implementation alone, setting aside the transport issue, constitute a “significant adverse economic impact” and ‘undue economic burden’ on both the companies and their customers. The recently issued *Nebraska Order*, discussed earlier, finds that a range of end user surcharges between \$0.64 and \$12.23 per month, including surcharges and taxes, would impose a “significant adverse economic impact on users of telecommunications generally.” *Id.*, p. 11. The prospect of additional costs being imposed on Nebraska’s rural carriers, by virtue of FCC determinations, likewise justified suspensions as “unduly economically burdensome”, according to the Nebraska Commission. *Id.*, p. 12. The evidence in this case proves the likelihood that similar costs and cost uncertainties attend the imposition of LNP.


All of this, of course, does not contemplate the havoc that could be wreaked upon South Dakota’s intercarrier compensation regime of access charges, reciprocal transport and termination charges and potential transit charges charged by third parties, such as Qwest, if rural carriers are forced to carry traffic to locations distant from their exchanges.

In light of these costs, and the technical infeasibility of transporting LNP traffic without any intercarrier arrangements, the imposition of LNP by the rural carriers clearly is not in the public interest. The Petitioners accordingly request the following relief, consistent with the recommendations of SDTA’s witness, Mr. Watkins (Tr. 504-05):

- 1). The current suspension of the FCC’s LNP requirements should be extended until cost and demand are better balanced from a public interest perspective;
- 2). Such suspension should continue and evaluations take place, no earlier until such time that the courts and the FCC resolve outstanding LNP issues, including currently pending LNP rulemakings;

- 3). The Commission should meanwhile confirm that under no circumstances do the Petitioners have the responsibility to transport local calls to some distant location, and ;
- 4). If and when the issues are resolved, and public interest circumstances have changed to warrant LNP implementation, some period of time should be allowed to facilitate Petitioners' provisioning of the necessary hardware and software, and to implement necessary administrative processes.

DATED this fifth day of August, 2004

  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the original and ten copies of the foregoing POST-HEARING BRIEF OF PETITIONERS AND SDTA upon:

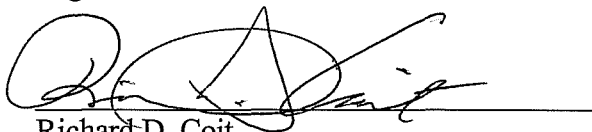
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and a copy upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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Dated this fifth day of August, 2004.

A handwritten signature in dark ink, appearing to read 'Richard D. Coit', is written over a horizontal line.

Richard D. Coit  
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**SOUTH DAKOTA  
PUBLIC UTILITIES COMMISSION**

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Re: Local Number Portability Suspension or Modification  
Dockets TC04-025, TC04-038, TC04-044-056, TC04-060-062 and TC04-084

Dear Folks:

Enclosed each of you will find a copy of Staff's Brief with reference to the above captioned matters. This is intended as service upon you by mail.

Very truly yours,

*Rolayne Alts Wiest*  
Rolayne Alts Wiest  
Staff Attorney

RAW:dk  
Enc.

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITIONS FOR )	STAFF'S BRIEF
SUSPENSION OR MODIFICATION OF 47 )	
U.S.C. § 251(b)(2) OF THE COMMUNICATIONS )	
ACT OF 1934 AS AMENDED )	DOCKET NUMBERS:

TC04-025	Kennebec Telephone Company
TC04-038	Santel Communications Cooperative, Inc.
TC04-044	Sioux Valley Telephone Company
TC04-045	Golden West Telecommunications Cooperative, Inc., Vivian Telephone Company and Kadoka Telephone Company
TC04-046	Armour Independent Telephone Company, Bridgewater- Canistota Independent Telephone Company and Union Telephone Company
TC04-047	Brookings Municipal Utilities d/b/a Swiftel Communications
TC04-048	Beresford Municipal Telephone Company
TC04-049	McCook Cooperative Telephone Company
TC04-050	Valley Telecommunications Cooperative Association, Inc.
TC04-051	City of Faith Telephone Company
TC04-052	Midstate Communications, Inc.
TC04-053	Western Telephone Company
TC04-054	Interstate Telecommunications Cooperative, Inc.
TC04-055	Alliance Communications Cooperative, Inc. and Splitrock Properties, Inc.
TC04-056	RC Communications, Inc. and Roberts County Telephone Cooperative Association
TC04-060	Venture Communications Cooperative
TC04-061	West River Cooperative Telephone Company
TC04-062	Stockholm-Strandburg Telephone Company
TC04-084	Tri-County Telcom, Inc.

### PROCEDURAL HISTORY

In 2004, a number of rural local exchange telephone companies filed petitions pursuant to section 251(f)(2) of the federal Communications Act of 1934 as amended, (the Act) and SDCL 49-31-80 seeking suspension or modification of their requirement to implement local number portability (LNP) under section 251(b)(2) of the Act. The



Petitioners are as follows: Kennebec Telephone Company (Kennebec); Santel Communications Cooperative, Inc. (Santel); Sioux Valley Telephone Company (Sioux Valley); Golden West Telecommunications Cooperative, Inc., Vivian Telephone Company, and Kadoka Telephone Company (Golden West/Vivian/Kadoka); Armour Independent Telephone Company, Bridgewater-Canistota Independent Telephone Company, and Union Telephone Company (Armour/Bridgewater/Union); Brookings Municipal Utilities d/b/a Swiftel Communications (Brookings); Beresford Municipal Telephone Company (Beresford); McCook Cooperative Telephone Company (McCook); Valley Telecommunications Cooperative Association, Inc. (Valley); City of Faith Telephone Company (Faith); Midstate Communications, Inc. (Midstate); Western Telephone Company (Western); Interstate Telecommunications Cooperative, Inc. (ITC); Alliance Communications Cooperative, Inc. and Splitrock Properties, Inc. (Alliance/Splitrock); RC Communications, Inc. and Roberts County Telephone Cooperative Association (Roberts County/RC); Venture Communications Cooperative (Venture); West River Cooperative Telephone Company (West River); Stockholm-Strandburg Telephone Company (Stockholm-Strandburg); James Valley Cooperative Telephone Company (James Valley); Tri-County Telcom, Inc. (Tri-County); and Cheyenne River Sioux Tribe Telephone Authority (CRST).

Intervention was granted to WWC License LLC d/b/a CellularOne (WWC) and the South Dakota Telecommunications Association (SDTA) in all of the dockets and intervention was granted to Midcontinent Communications (Midcontinent) in Santel, Sioux Valley, Valley, Faith, ITC, Alliance/Splitrock, Roberts County/RC, Venture, West River and

James Valley. Midcontinent later withdrew its interventions in Roberts County/RC and West River. Prior to the hearings on the petitions, the Commission issued an order granting the Petitioners' requests for interim suspension of their obligations to implement LNP pending final decision as allowed by section 251(f)(2) and SDCL 49-31-80.

The hearings were held on these dockets beginning on July 21, 2004. A related docket, TC03-192, was also included as part of the hearings. This docket concerned a motion by Midcontinent to compel local number portability or good faith negotiations with ITC. During the course of the hearing, James Valley and CRST went on record as stating that they had entered into settlement agreements and, thus, no hearings were held on those two dockets. In addition, Midcontinent and ITC entered into a Settlement Agreement concerning Docket TC03-192. At its July 20, 2004, meeting, the Commission approved that Settlement Agreement. At its August 17, 2004, meeting, the Commission approved the Stipulation for James Valley (Docket TC04-077) and the Stipulation for CRST (Docket TC04-085).

### **JURISDICTIONAL STATEMENT**

The Commission has jurisdiction over this matter pursuant to section 251(b)(2) of the federal Act and SDCL 49-31-80. Although Western Wireless attempted to cast doubts on the Commission's jurisdiction to consider suspensions, the FCC has recognized the jurisdiction of the state commissions to grant or deny petitions to suspend the implementation of LNP.<sup>1</sup>

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<sup>1</sup> TR. at 565-68. Staff notes that the chairman of the FCC is urging "State Commissions to consider the burdens on small businesses in addressing those waiver requests and to grant the requested relief if the State Commissions deem it appropriate." Venture Exhibit 4.

## LEGAL STANDARDS

The federal Act requires local exchange carriers "to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the [Federal Communications] Commission." 47 U.S.C. § 251(b)(2). In its November 10, 2003 order, the Federal Communications Commission (FCC) required local exchange carriers that are located outside of the top 100 metropolitan statistical areas to provide LNP and to port numbers to wireless carriers.<sup>2</sup> Pursuant to this order, local exchange carriers were required to provide LNP by May 24, 2004, or within six months of the date that the local exchange carrier receives a bona fide request.

State commissions are given the authority under the Act to grant a suspension or modification of local number portability requirements if the local carrier has fewer than two percent of subscriber lines nationwide.<sup>3</sup> The applicable South Dakota statute is based on the federal statute. SDCL 49-31-80 provides as follows:

Consistent with 47 U.S.C. § 251(f)(2) as of January 1, 1998, the commission may grant a suspension or modification of any of the interconnection or other requirements set forth in 47 U.S.C. §§ 251(b) and 251(c), as of January 1, 1998, to any local exchange carrier which serves fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. Any such carrier shall petition the commission for the suspension or modification. The commission shall grant the petition to the extent that, and for such duration as, the commission determines that the requested suspension or modification is consistent with the public interest, convenience, and necessity and is necessary:

- (1) To avoid a significant adverse economic impact on users of telecommunications services generally;

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<sup>2</sup> *In the Matter of Telephone Number Portability*, CC Docket 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. November 10, 2003).

<sup>3</sup> 47 U.S.C. § 251(f)(2). All of the Petitioners meet the "less than two percent" requirement.

- (2) To avoid imposing a requirement that is unduly economically burdensome; or
- (3) To avoid imposing a requirement that is technically infeasible.

The commission may suspend enforcement of the requirement or requirements identified in the petition pending final action on the requested suspension or modification.

Thus, based on both state and federal law, the Commission must evaluate the three standards as outlined in the statutes and determine whether a suspension or modification is necessary and is also consistent with the public interest, convenience, and necessity. If the Commission grants a suspension or modification, the Commission must also determine how long any such suspension or modification should last.

The first two standards focus on economic impacts. The first standard is centered on the customer - is suspension or modification necessary to avoid significant adverse economic impact on customers. The difficulty in applying this standard lies in deciding at what point the economic impact becomes significantly adverse.

The second standard requires the Commission to look at whether implementation of LNP would impose a requirement that is unduly economically burdensome. Although at first Staff thought that this standard could be evaluated by looking at the impact on the company, it seems to make more sense that this standard should be applied to both the consumer and the company, especially given the uncertainties surrounding how the costs of LNP will be distributed between the company and the consumers. For instance, it is difficult, at this point, to actually determine a fairly definite number that would be used by

the company to impose a surcharge on their customers.<sup>4</sup> Second, even if a surcharge could be stated with a relatively certain degree of accuracy, any costs not recovered in the surcharge could still be recovered from the customers through an increase in local rates. Third, an LNP surcharge is not mandatory and a company could choose not to implement one. Thus, Staff will evaluate this standard by considering the possible effects on both consumers and company.

With respect to the two economic standards, Staff notes that even without transport costs, the costs to implement LNP are considerable.<sup>5</sup> Predictably, the smaller the number of access lines, the greater the economic impact is on the consumer and the company. In addition, for some companies there are economic impacts beyond those that perhaps could reasonably have been expected. For example, in some cases, the implementation of LNP would require a company to acquire a new switch or invest a considerable amount of money to upgrade a switch that may need to be replaced in the next couple of years.

The third standard requires the Commission to determine whether the imposition of local number portability is technically infeasible. Staff will discuss this standard further below.

The final standard is one that this Commission is certainly familiar with -- is the request for suspension consistent with the public interest, convenience, and necessity. One of the main benefits of local number portability is that it is a tool for fostering

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<sup>4</sup> The FCC has authorized the companies to place a surcharge on their customers for LNP costs.

<sup>5</sup> When evaluating the individual companies, Staff has not included transport costs. This is based on Staff's position, discussed in more detail below, that the Petitioners are not responsible for the cost to transport calls outside of their exchange areas.

competition. In addition, Staff would expect that the demand for LNP will continue to grow, especially in areas where wireless coverage is good or where wireline competition exists. On the other hand, there are significant costs associated with the implementation of LNP and there are unresolved issues that could further impact those costs. Staff believes that the Commission needs to conduct a cost versus demand analysis when considering the public interest. Or, in other words, the lower the demand and the higher the costs, the greater the likelihood becomes that the imposition of LNP is not in the public interest. Conversely, higher demand coupled with lower costs tilts the balance in favor of requiring implementation of LNP. When making its recommendations, Staff has attempted to conduct this balancing test for each of the companies.

## **ISSUES**

Staff will first discuss some of the major areas of disagreement among the parties.

Following that discussion, Staff will evaluate the particular facts for each company and make recommendations.

### *1. Transport*

Transport costs comprised a significant portion of the costs to implement LNP as estimated by the Petitioners. Transport costs as estimated by WWC were considerably smaller. The highest transport costs were set forth by the companies who used John DeWitte as their cost witness. DeWitte's high transport costs were due to the method that he chose to provide transport. Under DeWitte's method, each wireless carrier would directly connect with a DS-1 to each end office or host office. DeWitte estimated the cost of each direct connection at either \$4,000 or \$5,000, depending on the company. TR. at 216-17. In addition, DeWitte did not limit the number of wireless carriers to wireless

carriers who were currently serving each exchange, but also included wireless carriers that were authorized to serve and that were considered, by the Petitioners, to be likely to serve in the next few years. TR. at 218.

The transport method proposed by the Petitioners who used Dan Davis and Tom Bullock, the TELECOM cost witnesses, was somewhat similar to the method proposed by DeWitte. The TELECOM cost witnesses proposed using a T-1 circuit installed between each host or stand-alone switch that is not subtended from a local tandem to each wireless carrier that is currently providing service in the RLEC's territory that does not already have a direct trunk into the RLEC's network. TR. at 868. This methodology also resulted in significant transport cost although the costs were less than the costs derived using DeWitte's method.

By contrast WWC's routing method was based on converting existing one-way trunks to the Qwest tandem to two-way trunks and using Qwest as the transit provider. This routing method resulted in significantly lower costs.<sup>6</sup> For example, under DeWitte's routing method, ITC's non-recurring transport costs would be \$576,000 with a monthly recurring cost of \$153,069. ITC Revised Exhibit 4B. Contrast those numbers with WWC's routing method which resulted in non-recurring costs of \$1,200 and monthly recurring costs of \$2,228. WWC Exhibit 9. For Alliance/Splitrock, the TELECOM witness' routing methodology resulted in non-recurring transport costs of \$11,789 and recurring transport

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<sup>6</sup> Staff notes that WWC stated at the hearing that WWC would pay for transport on an interim basis, until the final FCC decision on transport, provided the Qwest tandem based routing method was used. TR. at 939.

costs of \$15,502. Alliance Exhibit 3. For the same company, WWC estimated non-recurring costs of \$564 and recurring transport costs of \$1,441. WWC Exhibit 15.

The main basis for the routing methodology as proposed by the Petitioners' cost witnesses appeared to be that the Petitioners' current interconnection agreement requires direct connections. TR. at 175. However, the Petitioners' routing methods are not the most efficient methods to route or, obviously, the least costly methods. *Id.*

Staff's position is that the Commission does not need to dictate any particular transport route. Staff believes that the question that the Commission *does* need to answer is whether the Petitioners are responsible for the costs of transporting LNP traffic outside of their exchange areas.<sup>7</sup> Staff's position is that the Commission should find that an RLEC is *not* responsible for the cost of transporting LNP traffic outside of its exchange area. A local exchange company should not be required to transport local exchange calls beyond its local exchange area.

If the Commission finds that an RLEC is not responsible for transporting LNP traffic outside of its area, the next question that needs to be answered is how should the traffic be routed. Staff believes that the Commission should not require that a requesting carrier directly connect with the RLEC in each exchange. It will then be up to the RLEC and requesting carrier to negotiate the most efficient and reliable transport method. Thus, the RLEC and the requesting carrier will negotiate the method of transport, knowing that if the routing method requires transport of the call outside of the RLEC's area, the requesting

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<sup>7</sup> Apparently the FCC is considering this issue in a pending docket. See *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002.



carrier would be responsible for those transport costs. The routing method would then be based on how each carrier's current network is configured for that particular service area. Staff believes that the settlement agreements in James Valley and CRST demonstrate that the parties are in the best position to determine how to route LNP traffic.

## *2. Porting Estimates*

A critical element in the analysis of whether LNP requirements should be suspended is whether the costs of LNP can be justified given the demand for the service. Unfortunately, it would appear that accurately estimating LNP demand, especially for wireline to wireless ports, is fairly difficult. Based on the evidence presented, Staff does not have much confidence in the porting estimates presented by any of the parties.

WWC's witness, Williams, stated that WWC's porting estimates were "based on what we thought we would be able to obtain as a result of both our coverage and our view of what their demographics represented." TR. at 1031. His estimates for ports, based on each company's number of access lines, ranged from a low of 2.743% for Golden West to a high of 3.528% for Brookings. WWC Exhibits 9, 15, 18, 19. Williams further stated that, for most of the companies, the numbers are close to what WWC would expect in WWC's rural areas, which is approximately 15 percent intermodal porting over a five year period. TR. at 1031. He assumed that WWC would have about 45% of the total estimated ports. TR. at 690. Williams stated that there has not yet been any experience in intermodal porting in rural service areas so far. *Id.* He went on to state that there is a track record for wireline to wireline portability and that has resulted in an annual migration of 3.5% to 4.5%. *Id.* at 1033. He also stated that he would not expect wireline to wireless migration to be that high. *Id.*

Regarding the issue of demand, Steven Watkins, a witness for the Petitioners, stated that NeuStar reported that "95% of wireless ports have been from one wireless carrier to another and only 5% of wireless ports were between wireline and wireless carriers." SDTA Exhibit 1 at 11. He noted that these numbers were based on wireless to wireline reporting in more urban areas and expected that interest in rural areas would be even less. *Id.* He stated that in rural areas "the public does not recognize wireless service as an absolute substitute for wireline service" due to reliability and that "demand for wireless service is more for its mobile capability[.]" *Id.* at 12. He further stated that even for customers who decide to give up their wireline service for wireless generally will try wireless service first and then drop their wireline service. *Id.* Thus, there would not be a need to port numbers in that case. *Id.*

DeWitte, the cost witness for Brookings, ITC, Stockholm-Strandburg, Venture, West River, and Santel, also referenced the NeuStar report. Santel Exhibit 2 at 18. DeWitte believed that the porting percentage would be small for rural areas because of the "lack of ubiquitous quality and incomplete coverage of the Petitioner's existing service area by the existing wireless carriers." *Id.* DeWitte's estimated number of ports were quite low and ranged from 0.021% to 0.341% of a company's access lines per year.

Bullock, the cost witness for Alliance/Splitrock, Armour/Bridgewater/Union, Faith, Golden West/Vivian/Kadoka, McCook, Sioux Valley, Tri-County, and Valley, stated that he assumed that if LNP were required, the wireless companies would begin an aggressive marketing campaign which may generate some porting activity. TR. at 890. He also assumed that some of the customers would port back to the wireline carrier. *Id.* He stated

that he did not do a scientific analysis since there is no track record for number porting in rural areas. *Id.* He also stated that his porting estimates were not based on the number of wireless carriers operating in any particular area. *Id.* at 891. Bullock's estimated number of ports were higher than DeWitte's and ranged from 0.694% to 3.061% of a company's access lines per year.

Davis, the cost witness for Beresford, Kennebec, Midstate, Roberts County/RC, and Western, also used porting estimates when he calculated the cost to implement LNP. However, at the hearing, he stated that his porting numbers should not be taken as "any sort of estimate for demand" and that he did not do any type of empirical analysis. TR. at 1009-10. He just picked a number to "show a relationship between a specific demand level and what the resulting costs would be." TR. at 1009.

Only one company, Kennebec, attempted to forecast demand through a survey to its customers. The survey showed that 2.6 of the survey respondents were willing to pay a surcharge of \$2.00 per month for LNP. TR. at 957. If the surcharge were a \$1.00 a month, the demand increased to 12%. TR. at 964-65.

After reviewing the evidence presented, it appears to Staff that, as might be expected, the demand for porting will likely fall somewhere in between the numbers as forecasted by the Petitioners and those set forth by WWC. Staff believes that Williams numbers are too high based on a number of factors. First, according to Williams own testimony *wireline to wireline* portability has only resulted in porting percentages of 3.5% to 4.5%. TR. at 1033. Moreover, a survey regarding *wireless porting* showed that only 5% of wireless ports were *between wireline and wireless carriers*. SDTA Exhibit 1 at 11. On

the other hand, DeWitte's estimates that averaged less than two tenths of one percent appear to be somewhat low. For example, in Kennebec, 12% of the survey respondents would be willing to pay a dollar a month in order to have the ability to port their wireline numbers to their wireless carrier. TR. at 965. In addition, one of the cost witnesses, Bullock, used estimates that ranged from 0.694% to 3.061%.

Based on all of the evidence presented at the hearing, Staff asserts that a more realistic number might be around one and one half percent for the more densely populated areas that have adequate cellular coverage. Staff would expect the percentage to be lower in less densely populated areas with less than adequate cellular coverage.

### *3. Non-Transport Costs*

With respect to non-transport related costs, the Petitioners and WWC disagreed on some categories of costs. Staff will address the major disagreements, to the extent they are relevant to Staff's recommendation, when Staff makes its recommendation for each company.

### *4. Technical Infeasibility*

In their brief, the Petitioners contend that "in light of current routing arrangements, it is technically infeasible to complete calls on a local basis to telephone numbers ported to a wireless provider." Post-Hearing Brief of Petitioners and SDTA at 3. The Petitioners' brief also refers to "the technical infeasibility of transporting LNP traffic without any intercarrier arrangements." *Id.* at 54. To the extent the Petitioners are claiming that this meets the standard of "technical infeasibility," Staff asserts that the Petitioners' definition is incredibly broad and serves to render the standard almost meaningless. An analysis of whether LNP is technically infeasible should not be based on whether, using the current

routing methods, LNP can be implemented. Using this type of analysis, the Petitioners could just as well argue that LNP is technically infeasible because their switches do not currently have any LNP capability.

According to some of the Petitioners' own witnesses, LNP is technically feasible. Bryan Roth, manager for McCook, agreed that LNP was technically feasible. TR. at 829. Pamela Harrington, general manager of Roberts County and RC, stated that LNP is technically feasible with the proper upgrades. TR. at 1049. Davis, one of the cost witnesses, stated that under his proposed routing method, LNP is technically feasible. TR. at 997. Dennis Law, Golden West's manager, stated that his companies are technically able to connect to the Qwest tandem. TR. at 791-792.

It is Staff's position that it is technically feasible for each of the Petitioners to implement LNP. It will obviously cost money to implement LNP, but it can be implemented. Therefore, Staff will evaluate each company in light of the two economic standards and the public interest standard.

### **RECOMMENDATIONS BY COMPANY**

Based on the evidence presented at the hearing, Staff has three different recommendations. Staff recommends that some of the very high cost companies should be granted a two year LNP suspension, which would be until May 24, 2006. For the companies in this group, Staff submits that the high costs, coupled with the small number of access lines which will result in a very low number of monthly ports, demonstrate that these companies meet the statutory standards.

For the second group of companies, Staff recommends that these companies be granted an one year LNP suspension, which would be until May 24, 2005. For these companies, the costs are still considerable. Staff believes that these companies also meet the statutory standards.

Given the projected costs and demand, Staff submits that these companies would benefit from additional certainty in the process which would result when the FCC acts on issues such as porting intervals and transport routing issues. Staff would hope that the FCC decisions will be made by late this year or early next year. After the FCC decisions are issued, the companies should have a clearer picture of what costs must be incurred to implement LNP. The decisions may result in lower projected costs or higher projected costs, but either way, there should be more certainty. Further, the additional time should result in the ability to more accurately predict demand based on what has occurred in other rural areas. Depending on the demand that is experienced in other rural areas where LNP has been implemented, it is possible that these companies could justify a further suspension. On the other hand, if the demand is closer to Western Wireless' estimates of 3% per year or 15% over five years, then the Commission may decide to not allow any further suspensions.

Staff believes that these suspensions should be reviewed sooner than the first group given that the estimated costs per line are lower and the number of monthly ports will likely be higher given the larger number of access lines when compared with the first group. Or, in other words, because these companies present a closer question as to whether a suspension is necessary, Staff recommends a one year suspension as opposed to a two year suspension.

For the third group of companies, Staff recommends that the Commission deny any further suspension beyond what is needed to immediately begin implementation of LNP. Given the lower costs and higher expected demand, Staff does not believe that these companies meet the public interest standard. In each case, the companies estimated costs are below a dollar, in some cases considerably below a dollar a month, and their number of access lines are greater which will result in a higher number of ports each month. For each company Staff attempted to balance the economic impact on the consumers and company with the benefits of LNP. For these companies, where the estimated costs are lower and the estimated demand is higher, Staff believes that the cost versus demand balancing test is tilted in favor of implementing LNP.

***Companies that should be granted a suspension until May 24, 2006.***

***Faith***

Faith's cost witness projected an LNP cost of \$3.10 per line per month. WWC projected \$2.42 cost per line per month. WWC Exhibit 15. Both projected only 12 ports per year, one per month. *Id.* In addition, Faith will lose support for its Mitel switch at the end of 2007. TR. at 762. Faith did not know whether it would need to buy a new switch or upgrade the switch at that time. TR. at 762. WWC's witness stated that it would be appropriate for the Commission to give Faith a suspension until March 31, 2005 and allow Faith the opportunity to request a further suspension depending on its projected cost and estimated demand at that time. TR. at 622.

It is Staff's position that given the high per line costs (whether one relies on WWC's or Faith's cost testimony) and the projected low demand by both Faith and WWC, that

Faith should be granted a suspension until May 24, 2006. At that point, Staff anticipates that there will also be much better numbers regarding demand for LNP based on numbers from other rural areas where LNP has been implemented. Staff further expects that the issues that are currently pending at the FCC will be decided.<sup>8</sup> The Commission can then evaluate whether any further suspension should be granted.

Another reason why Staff believes that Faith should be granted a suspension until May 24, 2006 is that Staff would expect that by 2006, Faith should know what it intends to do regarding its switch. It makes little sense to require a company to put in significant dollars to upgrade a switch that may be replaced in a couple years. If Faith intends to replace the switch, Staff assumes the new switch will be LNP compliant.

Given the high costs, low porting estimates, and switch situation, Staff believes that Faith has shown that it meets the statutory standards for suspension.

In order to evaluate any future request for suspension, Staff recommends that Faith be required to keep track of all LNP inquiries or requests from its customers. Staff also recommends that the wireless carriers serving Faith also keep track of inquiries or requests.

### ***Tri-County***

Tri-County's cost witness projected an LNP cost of \$3.03 per line per month. WWC projected a cost of \$1.83 per line per month. WWC Exhibit 15. Tri-County estimated 12 ports per year while WWC projected only 13 ports per year. *Id.* At the hearing, Tri-

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<sup>8</sup> In addition, depending on what decisions are made at the FCC, it is conceivable that an RLEC may request suspension or modification of any FCC requirements.



County's cost witness stated that he had learned that Tri-County would actually require a new switch to implement LNP. Bullock stated that "Tri-County has some ancient DMS-10s and to actually provide LNP they would have to replace both of their switches." TR. at 912. He stated that he did not include the costs of new switches because it was not Tri-County's position "that this huge switch replacement cost is eligible to be included in an LNP end-user charge, but if Tri-County does not receive a suspension of the LNP requirements and Tri-County proceeds to implement LNP, they have to replace their switches, and it will cost them a lot of money to do that." TR. at 917. As with Faith, WWC's witness stated that it would be appropriate for the Commission to give Tri-County a suspension until March 31, 2005. TR. at 623.

Based on the high costs and estimated low demand plus the need for Tri-County to replace its switches to implement LNP, Staff makes the same recommendation as its recommendation for Faith.

### ***Stockholm-Strandburg***

Stockholm-Strandburg's cost witness projected an LNP cost of \$4.99 to \$5.58 per line per month. ITC Revised Exhibit 4B. WWC projected \$2.62 to \$2.93 cost per line per month. WWC Exhibit 9. Stockholm-Strandburg estimated one port per year while WWC projected 23 ports per year. ITC Revised Exhibit 4B; WWC Exhibit 9. Even at 23 ports per year, Staff believes that Western Wireless' estimate is too high. As with Faith, WWC's witness stated that it would be appropriate for the Commission to give Stockholm-Strandburg a suspension until March 31, 2005. TR. at 623.

Once again, it is Staff's position that given the high per line costs (whether one relies on WWC's or Stockholm-Strandburg's cost testimony) and the projected low demand

by both Stockholm-Strandburg and WWC, that Stockholm-Strandburg should be granted a suspension until May 24, 2006.

### ***Kennebec***

Kennebec's cost witness projected an LNP cost of \$3.45 per line per month. WWC projected \$1.84 cost per line per month. WWC Exhibit 18. One of the major reasons for the differences in projected per line costs concerned switch-related investment costs. The issue was whether generic upgrades should be included as a cost. Williams excluded the costs for the generic upgrade to the switch in the amount of \$31,400 for Kennebec. TR at 1024. Williams agreed that Kennebec could not actually implement LNP without the generic upgrade but stated that the upgrade is "part of ongoing switch operations, maintenance investments, and includes other features and capability sets unrelated to LNP and, therefore, shouldn't be included when one's trying to estimate the cost of what LNP costs for a company." TR. at 1024-25.

Davis, Kennebec's cost witness, did not check with Kennebec as to whether it had planned to upgrade the host at any time in the future. TR. at 1006. Davis further stated that with respect to Kennebec, he did not know what other benefits would be derived from the generic upgrade or if it provides extra services. TR. at 999 to 1000.

Staff believes that under the statutory standards, the costs for the generic upgrades can be considered. It is not disputed that the generic upgrade will need to be done before LNP can be implemented. Whether the costs can be included in an LNP customer surcharge is not relevant when considering whether the costs of LNP meet the statutory standards for suspension -- these costs can still be recovered from the customer through

an increase in local rates. Thus, Staff believes that the per line costs will be closer to Kennebec's estimate than to Western Wireless' estimate. However, if the Commission grants Kennebec a suspension and Kennebec later asks for a further suspension, Kennebec should provide more information regarding when it plans to do a generic upgrade.

Regarding the estimation of ports, both Kennebec and WWC estimated 24 ports per year. WWC Exhibit 18. Staff believes that even this low estimate is too high. As with Faith, WWC's witness stated that it would be appropriate for the Commission to give Kennebec a suspension until March 31, 2005. TR. at 661-62.

Based on the high costs and estimated low demand, Staff makes the same recommendation as its recommendation for Faith.

### ***Western***

Western's cost witness projected an LNP cost per line of \$3.97, compared to \$1.80 as projected by WWC. WWC Exhibit 18. As with Kennebec, the major reason for the difference was whether generic upgrades should be included as an LNP cost. Williams, Western Wireless' witness, excluded the costs for the generic upgrade to the switch in the amount of \$93,000, stating that the costs are not directly related to LNP. TR. at 1021. Again, Davis, Western's cost witness, did not check with Western as to whether it had planned to upgrade the switch at any time in the future. TR. at 1006.

As with Kennebec, Staff believes that the costs for the generic upgrades can be considered. Thus, Staff believes that the per line costs will be closer to Western's estimate than to Western Wireless' estimate. However, if the Commission grants Western

a suspension and Western later asks for a further suspension, Western should provide more information regarding when it plans to do a generic upgrade.

Regarding the estimation of ports, both Western and WWC estimated 36 ports per year. WWC Exhibit 18. Staff believes that these estimates, although low, are still overly optimistic.

Based on the high costs and estimated low demand, Staff makes the same recommendation as its recommendation for Faith.

***Companies that should be granted a suspension until May 24, 2005.***

***Armour/Bridgewater/Union***

Armour/Bridgewater/Union's cost witness projected an LNP cost of \$1.44 per line per month. WWC projected \$1.15 cost per line per month. WWC Exhibit 15 Armour/Bridgewater/Union projected 60 ports per year and WWC estimated 88 ports per year. *Id.* Armour/Bridgewater/Union has a Mitel switch that will lose support in 2007. TR. at 771.

Staff believes that Armour/Bridgewater/Union meets the statutory standards. First, given Armour/Bridgewater/Union's relatively low number of access lines, the number of estimated ports per month is quite low. The parties' estimates for ports range from five to seven ports per month. Staff would be very surprised if the number of actual ports per month will approach the 3% (seven ports per month) level. Second, the cost per line, although less than the previous cases, is still considerable. Third, Staff notes that Armour/Bridgewater/Union has a Mitel switch that will lose support in 2007. Any additional time will allow Armour/Bridgewater/Union to determine what it intends to do regarding its

switch. If Armour/Bridgewater/Union intends to replace the switch, Staff believes that it makes little sense to require Armour/Bridgewater/Union to spend over \$76,000 to upgrade a switch that will be replaced in the near future. As stated earlier, Staff anticipates that by next year there will also be much better numbers regarding demand for LNP based on numbers from other rural areas where LNP has been implemented. In addition, Staff hopes that the outstanding issues will be resolved by the FCC by next year. Therefore, based on all of the factors just listed, Staff recommends that Armour/Bridgewater/Union be granted a suspension until May 24, 2005.

As with the first group of companies, Staff recommends that the companies listed in this second group be required to keep track of all LNP inquiries or requests from its customers. Staff also recommends that the wireless carriers serving these companies also keep track of inquiries or requests.

### ***Roberts County/RC***

Roberts County/RC's cost witness projected an LNP cost of \$1.23 per line per month. WWC projected \$1.05 cost per line per month. WWC at Exhibit 18. Roberts County/RC projected 48 ports per year and WWC estimated 65 ports per year. *Id.*

As with Armour/Bridgewater/Union, this company also has a relatively low number of access lines and the number of estimated ports per month is quite low. The parties' estimates for ports range from four to five and one half ports per month. Again, Staff does not believe that these numbers are realistic. Second, the cost per line, although less than the previous cases, is still considerable. Thus, based on the evidence presented in this case, it is Staff's opinion that Roberts County/RC be granted a suspension until May 24, 2005.

### ***Beresford***

WWC's and Beresford's cost witnesses projected very similar LNP costs with Beresford estimating an LNP cost of \$1.27 per line per month and WWC coming in at \$1.22. WWC Exhibit 18. Beresford projected 36 ports per year and WWC estimated 43 ports per year. *Id.*

Once again, an examination of the facts presented in this case leads Staff to recommend that Beresford be granted a suspension until May 24, 2005. Porting estimates range from three to a mere three and one half per month and per line costs are still considerable.

### ***McCook***

McCook's cost witness projected an LNP cost of \$1.66 per line per month. WWC projected \$0.84 cost per line per month. WWC Exhibit 15. McCook projected 48 ports per year and WWC estimated 70 ports per year. *Id.*

Unlike the previous case, this case has a significant cost difference between the parties' estimated per line costs. The most significant difference in estimates concerns "other internal costs." McCook estimated \$41,316, while WWC estimated \$15,000. Williams' estimate of \$15,000 was used for each company. TR. at 934. He stated that this cost was based on his involvement with the process of establishing LNP. TR. at 935-36. Bullock's calculation was based on his estimation of the number of hours required to analyze and fill out forms to facilitate porting to wireless carriers. TR. at 851. Since Bullock's calculations appear to be more company specific, Staff would expect that these costs will probably fall closer to Bullock's estimates.

Another significant cost difference concerned switch upgrade costs. McCook used \$26,400 and Western Wireless estimated \$17,152. Western Wireless' estimate was based on McCook's original estimate. TR. at 934. Bullock's revised estimate was based on "the pricing policies of the individual switch manufacturers that the telephone companies utilize in their networks" and information from the companies. TR. at 849. Staff finds that Bullock's numbers are more reliable since the numbers are based on the company's actual switches. Thus, Staff believes that the per line number would be closer to McCook's number of \$1.66 per line.

Once again, an examination of the facts presented in this case leads Staff to recommend that McCook be granted a suspension until May 24, 2005. Porting estimates range from four per month to almost five per month. Staff believes that the per line costs and the low ports (which Staff believes are probably overstated) allows the Commission to grant the suspension.

### ***West River***

West River's cost witness projected an LNP cost of \$0.93 to \$1.04 per line per month. ITC Exhibit 4B. WWC projected costs of \$1.17 to \$1.31 per line per month. WWC Exhibit 9. West River projected one port per year and WWC estimated 121 ports per year. ITC Exhibit 4B; WWC Exhibit 9.

WWC is estimating 10 ports per month. Staff believes that WWC's estimate of over 3.2% of access lines porting per year is too high. A more realistic number would be 54 ports per year, or 4.5 per month. Thus, for the same reasons as the previous cases, Staff recommends that West River be granted a suspension until May 24, 2005.

## **Valley**

Valley's cost witness projected an LNP cost of \$0.67 per line per month. Valley Exhibit 3. WWC projected costs of \$0.63 per line per month. WWC Exhibit 15. Valley projected 60 ports per year and WWC estimated 112 ports per year. Valley Exhibit 3; WWC Exhibit 15. Although the cost witnesses differed on some costs, as can be seen, the cost differences did not amount to much.

Since the estimated per line costs were almost the same, Staff will look at the porting estimates. Steve Olesen, Valley's manager, testified that Valley currently has 25% or less cellular coverage. TR. at 740-41. Olesen also testified that his customers had complained about the lack of cellular coverage and he had no indication from the cellular companies that service would improve in the near future. TR. at 752. As stated earlier, WWC's witness, Williams, stated that WWC's porting estimates were "based on what we thought we would be able to obtain as a result of both *our coverage* and our view of what their demographic represented." TR. at 1031 (emphasis added).

However, despite the lack of coverage for Valley, Williams *still* estimated that a little over 3% of Valley's access lines would be ported each year. Staff finds it hard to believe that porting demand will exceed three percent in an area with this type of cellular coverage. Thus, although the costs for implementing LNP are less than the previous cases we have analyzed thus far, Staff believes requiring implementation of LNP in an area that has 25% or less cellular coverage is not in the public interest and recommends a suspension until May 24, 2005.<sup>9</sup>

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<sup>9</sup> Staff notes that although Midcontinent intervened in this case, Midcontinent is not providing service in Valley's service area.



### ***Midstate***

Midstate's cost witness projected an LNP cost of \$1.00 per line per month. WWC projected costs of \$0.54 per line per month. WWC Exhibit 18. Midstate projected zero ports per year and WWC estimated 143 ports per year. *Id.*

With respect to projected costs, one of the major differences concerned switch upgrade costs. At the hearing Midstate's cost witness changed the switch upgrade cost to \$65,000, which lowered the per line cost to \$0.92. Western Wireless asserted that \$25,000 was the appropriate cost. WWC Exhibit 18. Staff believes that WWC's lower estimate is based on a misunderstanding of a per-line cost quote from Nortel. TR. at 1038-1039. Staff believes that Midstate's projected cost for the switch upgrade is more accurate.

Porting estimates ranged from zero to almost 12 per month. Again, Staff finds that using 3% of access lines (12 per month) as an estimate for demand is too high.

Staff recognizes that this case, along with the next cases, pose a closer question on whether LNP suspension should be granted. Staff is recommending suspension for these cases because Staff believes that given the low number of ports expected and the costs, it is not in the public interest to require immediate implementation of LNP. As stated previously, a suspension until May 24, 2005, should help to clarify costs, routing responsibilities, and will allow the Commission to more accurately determine the actual demand for porting. Thus, Staff recommends that Midstate be granted a suspension until May 24, 2005.

### ***Sioux Valley***

Sioux Valley's cost witness projected an LNP cost of \$0.71 per line per month. WWC projected costs of \$0.62 per line per month. WWC Exhibit 15. Sioux Valley projected 120 ports per year and WWC estimated 177 ports per year. *Id.* Given the less than ten cents difference in the parties' cost estimates, Staff will not attempt to analyze the slight cost differences.

Staff would estimate that ports per month might be closer to seven per month or lower. Based on the same rationale as the previous case, Staff recommends granting Sioux Valley's request for suspension until May 24, 2005.

### ***Santel***

Santel's cost witness projected an LNP cost of \$0.78 to \$0.87 per line per month. ITC Exhibit 4B. WWC projected costs of \$0.73 to \$0.82 per line per month. WWC Exhibit 19. Santel projected one port per year and WWC estimated 155 ports per year. ITC Exhibit 4B; WWC Exhibit 19. Staff would just note that one of the differences in costs concerns service order administration costs. Santel's cost witness used the more costly automated SOA based on the uncertainty regarding whether the porting interval will be shortened. TR. at 222-23. Staff believes that this is an example of why allowing for a suspension may result in more accurate cost estimates. If the FCC were to decide the porting interval question, then the company will be better able to evaluate what type of service order administration is necessary.

Porting estimates ranged from one to over 12 per month. Again, Staff believes that Western Wireless' estimate is too high given that it is based on 3.2% of Santel's access lines. Staff believes that it would be more reasonable to expect six per month or even

lower. Based on the same rationale as the previous case, Staff recommends granting Santel's request for suspension until May 24, 2005.

***Companies that should be denied a suspension.***

***Brookings***

Brookings' cost witness projected an LNP cost of \$0.74 to \$0.83 per line per month. ITC Exhibit 4B. WWC projected costs of \$0.68 to \$0.76 per line per month. WWC Exhibit 9. Brookings projected 48 ports per year and WWC estimated 496 ports per year. ITC Exhibit 4B; WWC Exhibit 9. Given the relatively small difference in the cost estimates, Staff will not explore these costs any further.

Staff finds that it is in the public interest to deny suspension when the costs are balanced along with a higher expected level of demand than the other cases. Brookings is a significantly larger company than the other companies that have been discussed thus far. Staff does not believe that demand for porting will reach 3%, especially in the first few years. However, cutting that number in half and using 1.5% of Brookings' access lines as an estimate of demand would result in over 210 ports per year, or over 17 ports per month. In addition, Staff notes that Brookings' wireless company is LNP capable. Therefore, Staff believes that it is in the public interest to deny Brookings request for suspension.

***ITC***

ITC's cost witness projected an LNP cost of \$0.54 to \$0.61 per line per month. ITC Exhibit 4B. WWC projected costs of \$0.55 to \$0.62 per line per month. WWC Exhibit 9. ITC projected 24 ports per year and WWC estimated 453 ports per year. Given the nearly identical cost estimates, Staff will not attempt to analyze any of the cost differences.

As with Brookings, Staff finds it is in the public interest to deny suspension when these costs are reviewed in conjunction with a higher level of estimated demand. Using a 1.5% estimate for demand, ITC could expect to port around 218 numbers per year, or over 18 per month. And, in ITC's case, the demand could certainly be higher given Midcontinent's entry into parts of ITC's service area. Thus, Staff believes that it is in the public interest to deny ITC's request for suspension.

### ***Venture***

Venture's cost witness projected an LNP cost of \$0.55 to \$0.61 per line per month. ITC Exhibit 4B. WWC projected costs of \$0.53 to \$0.59 per line per month. WWC Exhibit 9. Venture projected 24 ports per year and WWC estimated 409 ports per year. ITC Exhibit 4B; WWC Exhibit 9. Again, since there is not much difference in the parties' cost estimates, Staff will not attempt to analyze these minimal cost differences.

As with Brookings and ITC, Staff finds that it is in the public interest to deny suspension when the costs are around \$0.60 and there is a higher expected level of demand. Using 1.5% estimate for demand, Venture could expect to port up to 204 numbers per year, or around 17 per month. Therefore, Staff believes that it is in the public interest to deny Venture's request for suspension.

### ***Golden West/Vivian/Kadoka***

Golden West/Vivian/Kadoka's cost witness projected an LNP cost of \$0.32 per line per month. Golden West Exhibit 3. WWC projected costs of \$0.35 per line per month. WWC Exhibit 15. Golden West/Vivian/Kadoka projected 240 ports per year and WWC estimated 1076 ports per year. WWC Exhibit 15.

By choosing to combine the three companies, the monthly costs are the lowest of all the Petitioners and the expected porting demand is the highest. Staff finds that it is not in the public interest to grant a suspension when the costs are this low and there is a higher expected level of demand. Using 1.5% estimate for demand, Golden West/Vivian/Kadoka could expect to port up to 588 numbers per year, or around 49 per month. Staff believes that it is in the public interest to deny Golden West/Vivian/Kadoka's request for suspension.

### ***Alliance/Splitrock***

Alliance/Splitrock's cost witness projected an LNP cost of \$0.79 per line per month, which was reduced at the hearing to around \$0.73. Alliance Exhibit 3. WWC projected costs of \$0.47 per line per month. WWC Exhibit 15. Alliance/Splitrock projected 180 ports per year and WWC estimated 293 ports per year. WWC Exhibit 15.

One of the major cost differences concerned switch upgrade costs. It is Staff's position that the switch upgrade costs as set forth by Alliance/Splitrock at the hearings are more accurate than Western Wireless. Alliance/Splitrock's estimate is based on the actual number of equipped lines in the DMS-10 switches for Alliance and Splitrock. TR. at 836.

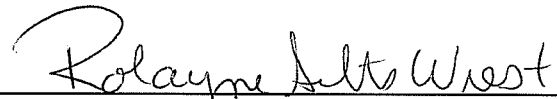
Staff finds that this case poses a closer question of whether a suspension should be granted. However, using 1.5% estimate for demand, Alliance/Splitrock could expect to port up to 147 numbers per year, or over 12 per month. Thus, Staff believes that it is in the public interest to deny Alliance/Splitrock's request for suspension.

### **CONCLUSION**

Staff has attempted to conduct a company specific analysis in order to arrive at reasonable recommendations that are consistent with the facts of each case and the legal

standards. Admittedly, some of the cases presented a much clearer picture as to whether a suspension should be granted than other cases. However, Staff hopes that its analysis will give the Commission some guidance in making its decisions for these cases.

Dated at Pierre, South Dakota, this 20<sup>th</sup> day of August, 2004.



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#### CERTIFICATE OF SERVICE

I hereby certify that copies of Staff's Brief were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the addresses shown below on this the 20<sup>th</sup> day of August, 2004.

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AUG 23 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

August 20, 2004

### NEXT DAY DELIVERY

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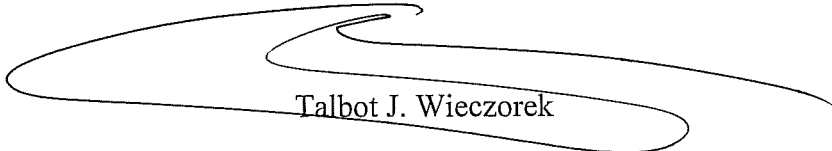
RE: WWC License LLC – Local Number Portability Post-Hearing Brief  
GPGN File No. 5924.040157

Dear Mr. Bonrud:

Enclosed for filing, please find the original and ten copies of Western Wireless's Post-Hearing Brief.

If you have any questions, please call me.

Sincerely,



Talbot J. Wiczorek

TJW:klw

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**AUG 23 2004**

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**IN THE MATTER OF THE PETITIONS FOR )  
SUSPENSION OR MODIFICATION OF 47 )  
U.S.C. § 251(b)(2) OF THE )  
COMMUNICATIONS ACT OF 1934 AS )  
AMENDED**

**WWC LICENSE LLC's POST-  
HEARING BRIEF**

**DOCKET NUMBERS:**

TC04-025 Kennebec Telephone Company  
TC04-038 Santel Communications Cooperative, Inc.  
TC04-044 Sioux Valley Telephone Company  
TC04-045 Golden West Telecommunications Cooperative, Inc.,  
Vivian Telephone Company and Kadoka Telephone  
Company  
TC04-046 Armour Independent Telephone Company, Bridgewater-  
Canistota Independent Telephone Company and Union  
Telephone Company  
TC04-047 Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 Beresford Municipal Telephone Company  
TC04-049 McCook Cooperative Telephone Company  
TC04-050 Valley Telecommunications Cooperative Association, Inc.  
TC04-051 City of Faith Telephone Company  
TC04-052 Midstate Communications, Inc.  
TC04-053 Western Telephone Company  
TC04-054 Interstate Telecommunications Cooperative, Inc.  
TC04-055 Alliance Communications Cooperative, Inc. and  
Splitrock Properties, Inc.  
TC04-056 RC Communications, Inc. and Roberts County Telephone  
Cooperative Association  
TC04-060 Venture Communications Cooperative  
TC04-061 West River Cooperative Telephone Company  
TC04-062 Stockholm-Strandburg Telephone Company  
TC04-084 Tri-County Telcom, Inc.

Intervenor, WWC License LLC, by and through its attorney, Talbot J. Wieczorek, of  
Gunderson, Palmer, Goodsell & Nelson, LLP, hereby submits this post-hearing brief.

## STATEMENT OF THE ISSUE

Whether the South Dakota consumers living within the areas served by petitioning local exchange carriers (hereinafter “LEC”s) will receive the right to port their numbers as the remaining South Dakota citizens are allowed to do today.

## PROCEDURAL HISTORY

In 1996, Congress enacted the Telecommunications Act of 1996 (hereinafter the “Act”). This Act was intended to effectuate comprehensive changes to the 1934 Telecommunications Act. Pub.L. 104-104, 110 Stat. 56 (codified as amended in sections of Title 47, United States Code). The 1996 Act’s primary purpose, “...was to reduce regulation and encourage the rapid deployment of new telecommunications technology.” Reno v. American Civil Liberties Union, 521 U.S. 844, 857-58 (1997). Moreover, the Court noted that many of the provisions found in the Act were intended to, “promote competition in the local telephone service market, the multi-channel video market, and the market for over-the-air broadcasting.” Id.; *See Also* Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, first Report and Order, 11 F.C.C.R. 15499, FCC 96-325 (1996).

The provision of the Act that is relevant to this matter is Intermodal Portability, Section 251(b) of the 1934 Telecommunications Act as amended by the 1996 Act. 47 U.S.C. § 251(b). Section 251(b), “... requires LECs to provide local number portability (LNP), to the extent technically feasible, in accordance with the requirements prescribed by the Commission.” 47 U.S.C. § 251 (b)(2); In the Matter of Telephone Number Portability, CC Docket No. 96-98, Order, 19 F.C.C.R. 875 (2004). Congress required LNP because it determined LNP was necessary to enhance competition between wireless and wireline carriers. Id. at 876.

The Federal Communications Commission (“FCC”) initially designated November 24, 2003 as the date when carriers in the top 100 metropolitan statistical areas (“MSA”s) must be

capable of LNP. Id. The FCC extended this requirement for LECs that operate in an area with less than two percent of the nation's subscriber lines until the later of May 24, 2004 or six months after receiving a request for LNP. Id.

In addition, the 1996 Act also provides rural carriers with fewer than two percent of the nation's subscriber lines the ability to petition the State commission for a suspension or modification of the LNP requirements. 47 U.S.C.A. § 251 (f)(2). It is undisputed that the Petitioning parties constitute "rural carriers" under § 251 (f)(2).

On February 12, 2004, Kennebec Telephone Company petitioned the Public Utilities Commission of the State of South Dakota (hereinafter "Commission") for suspension or modification of the § 251 (b)(2) LNP requirements. Santel Communications Cooperative, Inc. petitioned on February 23, 2004. On March 9, 2004, Armour Independent Telephone Company, Bridewater-Canistota Independent Telephone Company and Union Telephone Company jointly petitioned, Sioux Valley Telephone Company individually petitioned, and Golden West Telecommunications Cooperative, Inc., Vivian Telephone Company and Kadoka Telephone Company jointly petitioned. During March 10-17, 2004, the following companies filed individual petitions: Brookings Municipal Utilities d/b/a Swiftel Communication, Beresford Municipal Telephone Company, McCook Cooperative Telephone Company, The City of Faith Telephone Company, Midstate Communications, Inc., Interstate Telecommunications Cooperative, Inc., Valley Telecom Coop. Assoc., Venture Communications Coop., Western Telephone Company, and West River Coop. Telephone. On March 15, 2004, Alliance Communications Inc. and Splitrock Properties Inc. jointly petitioned, RC Communications, Inc. and Roberts County Telephone Cooperative Assn. jointly petitioned, and Stockholm-Strandburg Telephone Company individually petitioned.

On March 29, 2004, WWC License LLC, doing business as CellularOne (hereinafter “Western Wireless”) petitioned to intervene in the above referenced actions. After Western Wireless filed its petition to intervene, James Valley Cooperative Telephone Company, Tri-County Telecom and Cheyenne River Sioux Tribe Telephone Authority individually petitioned on April 13, 2004 and April 23, 2004 respectively. Western Wireless subsequently filed similar petitions to intervene in those actions and the Commission allowed intervention.

On April 19, 2004, the Commission issued an Order Granting Interim Suspension Pending Final Decision and an Order Granting Intervention. The hearing for all previously referenced Petitioners commenced on June 21, 2004. During this hearing, the burden of proof was appropriately placed upon each rural carrier to demonstrate it is entitled to a suspension or modification of the LNP requirements.<sup>1</sup> See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, first Report and Order, 11 F.C.C.R. 15499, 15518, FCC 96-325 (1996).

During the course of the hearing, James Valley Telephone reached a stipulated settlement agreement with Western Wireless. Cheyenne River Sioux Tribe Telephone Authority also reached a settlement agreement with Western Wireless but remains part of the action to the extent that the decision may impact future transport obligations.

### **FACTUAL BACKGROUND**

Throughout this brief, cites to the transcripts will be cited as “TR, Page \_\_\_, Lines \_\_\_\_.” Cites to prefiled testimony will be given setting forth the name of the witness, whether the citation is to direct or rebuttal prefiled testimony and a page number.

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<sup>1</sup> The 8<sup>th</sup> Circuit Court of Appeals has considered which party burden is appropriately placed upon under § 251(f) and it concluded that burden is appropriately placed upon the petitioning party. Iowa Utilities Board v. Federal Communications Commission, 219 F.3d 744, 761 (8th Cir. 2000), *reversed in part on other grounds by Verizon Communications Inc. v. Fed’l Communications Comm’n*, 535 U.S. 467 (2002).

Mr. Williams, testifying on behalf of Western Wireless, explained that Petitioners had two obligations related to LNP. One was to perform updates to their switches to be able to port out numbers from their customers. The second was to update their networks to permit customers to call ported numbers. TR, Page 555, Lines 12-16. The second obligation is not an obligation that can be suspended or modified by the Commission. The first obligation does fall within the jurisdiction of the Commission. Id.

The obligation of LNP is not a new requirement. Rather, it is a long-term plan under the federal law. Mr. Williams testified that the FCC clarified issues and deadlines for implementing LNP in its November Order of 2003. TR, Page 556, Lines 1-11.

In presenting the factual evidence that Petitioners claimed would support modification or suspension of their obligations to provide LNP, the Petitioners for the most part followed a standard format. Each Petitioner presented cost testimony through one of four cost experts. Most Petitioners then also had a company representative testify. The following delineates the various evidence introduced, and the issues surrounding that evidence.

#### **I. Consumer Demand.**

With the exception of Kennebec Telephone Company, no Petitioner did any survey of their customer base as to whether they desired LNP or what they were willing to pay for LNP. Additionally, while company representatives may have generally testified concerning their customer base, no Petitioner presented any documentary evidence or any testimonial evidence actually providing such things as the average household income or any other demographic information regarding their customer base.

In the case of Kennebec, the Kennebec manager did testify that he had commissioned a survey. Mailings were sent to their customers who were asked to fill the survey out and mail it back. Bowar Direct, Page 1. Even using this unscientific poll, approximately twelve percent of

the customer base was willing to pay over \$1.00 per month to have the opportunity to port their landline number to wireless. Bowar Direct, Page 3.

Ron Williams, of Western Wireless, also talked about the desire for local number portability. In response to Commissioner's questions, he explained how people identify and are "invested in their land line phone number." TR, Page 619, Lines 8-14. Further, he explained how Congress intended LNP to be a universal feature available throughout the country. As a universal feature, it eliminates any "costs causer" argument because a person moving from one provider to another pays for LNP at his/her new carrier. TR, Page 621, Lines 5-6.

Mr. Williams provided two surveys showing the interest in the ability to use a cellular phone as a primary phone. *See* Western Wireless Hearing Exhibits 11 and 14. The survey done by Western Wireless covers rural areas that it serves, including South Dakota. *See* Western Wireless Exhibit 11. That exhibit showed 16 percent of people eventually replacing their land line phone and 25 percent unsure whether they would replace their land line phone. *Id.* Mr. Williams explained in response to Commissioner Berg's questions that wireline to wireless migration facilitated by local number portability has been predicted anywhere from three percent to as high as 50 percent. TR, Page 645, Lines 7-14. However, Western Wireless' experience has been approximately three percent per year migration. TR, Page 645, Lines 15-19.

## **II. Cost Analysis.**

In regard to the cost of LNP, on behalf of the Petitioners, four cost experts testified. These cost experts were John DeWitte, Tom Bullock, Dan Davis and Douglas Neff.<sup>2</sup> They presented three different ways to provide LNP. Intervenor, Western Wireless, presented a witness, Ron Williams, to provide cost analysis testimony. Although, Mr. Williams questioned

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<sup>2</sup> Mr. Neff's cost analysis was only done on behalf of Cheyenne River Sioux Tribe Telephone Authority. He predicted LNP cost per access line at \$.70 monthly without transport and \$2.46 per month with transport costs. Because Cheyenne River Sioux Tribe Telephone Authority agreed to begin providing LNP pursuant to a stipulated settlement, Mr. Neff's analysis will not be addressed further in this brief.

the legitimacy of some of the numbers Petitioners presented, he still used those numbers in his cost analysis.

In regard to economic burden, none of the Petitioners have taken the position that they could not afford to implement LNP, even at the costs submitted by the Petitioners' experts. TR, Page 558, Lines 5-14. Rather, Petitioners acknowledged that they have the ability to pay for LNP and to recover their investment in LNP through the LNP surcharge. TR, Page 558, Lines 15-18; TR Pages 89, 92, 313, 346, 378-379, 438-439, 742, 784-785, 816, 829, 953-954, 973, 984, 1047 and 1101. Further, a number of the Petitioners' company representatives acknowledged that these LNP surcharges would also, to the extent allowable, be included in submissions for USAC funding. Id.

While Petitioners' cost witnesses differed on how to provide LNP, all Petitioners' cost experts agreed that they only considered one way to provide LNP. They restricted their review on how to provide LNP to methods already contained within existing interconnection agreements. *See* TR, Pages 857, 997. They did this even though they acknowledged that the FCC has specifically stated that transport agreements are not required to provide LNP. *See* DeWitte ITC Direct Prefiled Testimony, Page 6, Lines 19-21; TR, Page 857, Lines 1-3. On the other hand, Williams submitted a lower cost alternative which was not restricted to existing interconnection agreements.

Because the Petitioners' cost experts required that their structure for providing LNP be subject to existing interconnection agreements, they as a whole, without analysis, rejected Western Wireless' proposed method for facilitating LNP. TR, Page 177; Page 997, Lines 13-15. Still, it was pointed out during the hearing that in Minnesota, rural LECs had jointly petitioned the Minnesota Public Utilities Commission proposing the same method being proposed by Western Wireless for facilitating LNP. The Minnesota rural LECs stated that LNP, "can be

accomplished efficiently and cost effectively,” under such a method. Hearing Exhibit 6, Page 5. Further, the rural LECs of Minnesota referred to such method of providing LNP as an “eminently reasonable solution of making use of the very same facilities used by the CMRS providers to deliver traffic to [rural LECs].” *Id.* at page 10. Regardless, Petitioners continued to reject Western Wireless’ proposal.

**A. Cost testimony proffered by Mr. DeWitte.**

The first cost expert to testify was Mr. DeWitte. Mr. DeWitte is employed by Vantage Point Solutions, Inc. He testified on behalf of Swiftel Communications, Interstate Telecommunications Cooperative, James Valley Cooperative Telephone Company, Santel Communications, Stockholm-Strandburg Telephone Company, Venture Communications Cooperative and West River Cooperative Telephone Company. Notably, Mr. DeWitte’s analysis on the costs changed every time he submitted testimony. His final cost analysis is contained in ITC Hearing Exhibit 4B.

Mr. DeWitte told the Commission the way to provide LNP is to provide a DS1 connection between every wireless carrier to every end and host office, essentially every exchange, of each Petitioner. Mr. DeWitte’s plan for Interstate is graphically illustrated by Western Wireless Exhibit 5. Based on this proposal, Mr. DeWitte assumed six CMRS carriers or wireless carriers would require DS1 lines to all twenty-four Interstate Telecom end or host offices. He then priced each DS1 line at \$4,000. *See* DeWitte Prefiled Direct, Page 13, Lines 7-23. After accounting for any pre-existing Points of Interconnection (“POI”), his one-time nonrecurring transport cost for Interstate is \$560,000. *See* ITC Exhibit 4B.

Although Mr. DeWitte admitted the traffic over these POIs would be minimal, he testified minimum monthly recurring charges for each line would be \$1,150 per month. *See*



DeWitte Prefiled Direct, Page 13, Line 21. This resulted in a final monthly reoccurring transport cost of \$153,069. *See* ITC Exhibit 4B.

Mr. DeWitte further admitted that when coming up with these calculations, he projected future wireless carriers coming into the market, and included those costs. *See* TR, Page 218, Lines 11-17. He even admitted that in the case of some companies, he included POIs for wireless carriers currently doing business in part of the LECs territory, but not having a license to do business in the remaining parts. TR, Page 217, Lines 18-24. Thus, even though no license existed in some cases, he included POIs to exchanges even where carriers were not licensed. His rationale was that some day more wireless carriers *may* come into the area. TR, Page 217, Lines 18-24.

With respect to Interstate, Interstate's corporate representative, acknowledged Interstate was a named party in a proceeding in front of the Minnesota Public Utilities Commission. TR, Page 56. In that proceeding, an entity similar to South Dakota Telecommunications Association ("SDTA"), Minnesota Independent Coalition ("MIC"), had petitioned on behalf of its members for an extension of the time to provide LNP to allow agreements to be reached with Qwest to transport ported numbers. *See* Hearing Exhibit WW6 ("MIC Petition"). Mr. DeWitte admitted that he did not investigate in any way this alternative avenue to provide LNP services. TR, Page 165. Rather, he reiterated that he simply confined his analysis to an approach where interconnection agreements already exist regarding traffic. TR, Page 178, Lines 14-22. Although Mr. DeWitte did admit that the Qwest hardware to make the trunk group two way, as being requested in the Minnesota MIC filing, exists here in South Dakota. TR, Page 163.

Mr. DeWitte contended that he needed to stay with his plan even though his plan was more expensive than that proposed by Western Wireless. In discussions about the monthly

recurring costs dealing with Interstate, he was questioned regarding the large variance between the proposed plans.

Question:      Alright. 1,825. And rather than absorbing that cost what Interstate is proposing to do is spend monthly recurring \$157,000 to provide porting; correct?

Answer:       Based on the information in the ruling and, you know, all the rules that were in place, yes.

Question:      And essentially we could do that same mathematical model for each one of the companies you are testifying for?

Answer:       Yes.

TR, Page 283, Lines 10-17. Regarding the installation costs, Vice Chair Hansen inquired of Mr. DeWitte's plan versus how James Valley had solved the transport issue.

Vice Chair Hansen:   Thank you. Is it realistic for us to believe that when looking at the \$4,000 option and the \$576,000 option that notwithstanding the recurring costs, etc., it is realistic for us to believe that there are considerably less expensive ways of skinning this cat than the methodology that was shown on 3A?

Mr. DeWitte:        I believe there are other options that could be explored.

TR, Page 239, Lines 1-9

As to Mr. DeWitte's other categories of cost beyond transport, such as switch related costs and technical and administrative costs, Mr. DeWitte admitted that he had not calculated in any economies of scale. He assumed each of his clients would bring in their own trainers and not pursue cost sharing arrangements. He did not account for any of the Petitioners working together. TR, Page 154, Lines 1-4, although SDTA has done some of that for their members previously.

As a cost, he assumed such things as a subscriber flyer, costing \$2 per subscriber nonrecurring, and then an additional one dollar per year per subscriber in the future. He based this on printing and mailing costs. *See*, for example, DeWitte Direct Prefiled Testimony in

Interstate, Page 12, Lines 3 – 18. He obtained this information from a third party contact and not the actual companies he represented. He did not consider that the information could be placed in a regular flyer already produced by some of the companies he represented, at a lower cost. For example, one of Interstate's flyers was marked as an exhibit for the hearing. *See* Midcontinent Hearing Exhibit 2. That flyer is sent out by Interstate on a regular basis. The actual publishing cost for that flyer is twenty-five cents, as noted on the flyer, and not the one dollar a piece estimated by Mr. DeWitte. Id.

Additionally, for the flyers, he estimated \$15,000 to come up with the first informational flyer. He assumed that all seven of the Petitioners he was testifying on behalf would pay the \$15,000 to come up with this additional flyer for a total of \$105,000 to be expended by these companies. TR, Page 153, Lines 1-9. He did not make any assumption that these companies could get together to do one informational flyer explaining LNP and spread the cost between them. He assumed all the companies would have to work on their own to do everything. TR, Page 153, Lines 14-24.

**B. Cost Testimony proffered by Mr. Bullock and Mr. Davis.**

Cost experts Bullock and Davis are both employed by TELECOM Consulting Resources, Inc., in Nebraska. *See* Davis Prefiled Direct Testimony, Page 1; Bullock Prefiled Direct Testimony, Page 1. Mr. Bullock testified extensively on how the TELECOM experts had calculated costs.

Mr. Bullock testified that the TELECOM routing provision assumed a necessary T1 circuit be installed between each host or stand alone switch and each wireless carrier currently providing service in an ILECs territory. He further indicated a T1 switch would not be necessary between a host switch and a subtended local tandem switch. TR, Page 868, Lines 15-22. *See* also TR Pages 993-994 (Davis Testimony).

In coming up with his calculations for required T1 lines and monthly recurring transport costs, TELEC simply asked each Petitioner what wireless carriers *might* be doing business in *any* part of their territory. For example, with respect to Golden West, TELEC received the response that five (5) wireless companies provided service somewhere in its area. From there, TELEC made the assumption that these wireless carriers operated throughout the service area, and T1 lines would be needed for every exchange to every wireless carrier. TR, Page 873, Lines 10-14. The companies doing business somewhere in the Golden West area are Verizon, Western, Viaero, Qwest and AT&T. TR, Page 875, Lines 11-13. Based on this, TELEC created a cost analysis assuming the necessity of five (5) T1s for every Golden West exchange, less any already existing POIs. Mr. Bullock admitted TELEC did not investigate or even ask whether any of these wireless companies simply resold services or roamed off of someone else's facilities. TR, Page 875, Line 16. Rather, since Golden West reported five (5) wireless companies doing business somewhere in their area, TELEC assumed five (5) T1s necessary for such sights as Philip, Wall, Pine Ridge and every other Golden West exchange. Bullock did agree that while TELEC had no independent knowledge of any of these wireless carriers or what exchanges they actually operated in, if they were roaming, roaming would not be a direct charge and therefore, there would be no need for a T1. TR, Page 877, Lines 15 – 25; TR, Page 874, Lines 5 – 25.

Moreover, TELEC did not consider any other traffic mechanisms, such as the Western Wireless proposal, because one of TELEC's criteria in coming up with its traffic proposal was that the proposal would be "consistent with existing interconnection agreements." TR, Page 857, Lines 1-3. Additionally, Mr. Bullock took the position that it would be inappropriate to transport through Qwest, although he admitted it would be cheaper, because it would shift the responsibility of transportation outside the local calling area of the LEC. He did agree, in response to a question by Vice Chairman Hansen, that if the wireless company is going to be

responsible for paying the transport costs, the wireless company should be able to choose such a mode of transportation. TR, Page 919, Lines 4-20.

Mr. Davis then testified on behalf of the remaining companies TELECOM was hired to represent including: Beresford Municipal Telephone, Kennebec Telephone, Midstate Communications, RC Communications/Roberts County Telephone and Western Telephone. He stated that exhibit R1 attached to his prefiled rebuttal testimony was the most accurate numbers that he was presenting to the Commission. These numbers range from a low of \$.55, Midstate's LNP cost per line per month excluding transport, to a high of \$3.76, Western's LNP cost per month including transport. Exhibit R1 of Davis Rebuttal.

During cross examination at the hearing, Mr. Davis confirmed that LNP was technically feasible. TR, Page 997, Lines 6-10. He only contended that the Western Wireless proposal was technically infeasible because it did not follow the existing interconnection agreements. TR Page 997, Lines 11-15.

In addition to estimating standard costs related to LNP, with respect to in at least two of the companies, Mr. Davis also included significant switch upgrades. On behalf of Kennebec, he included a switch upgrade to a platform that could then support LNP. TR, Page 999. He acknowledged that companies regularly upgrade switches, (TR, Page 1000), but that he did not bother to ask Kennebec when it had this switch scheduled for an upgrade. Id. As to Kennebec alone upgrade cost was estimated to be \$37,400. This amount is continued in Mr. Davis' switch upgrade costs under Kennebec. He did not bother to ask Kennebec what other services it would derive from the upgrade or how it impacted their need to upgrade the switch anytime in the future. TR, Page 999, Lines 24-25 and Page 1000, Lines 16-18.

He also included a similar non LNP upgrade for Western Telephone. The upgrade to the host switch was \$76,795 of his projected costs for Western Telephone's switch upgrade costs.

As with Kennebec, he did not ask Western Telephone if it obtained any other services based on this upgrade. TR, Page 1009, Lines 3-6. Further, Mr. Davis did not ask Western Telephone whether it already had this upgrade planned. Id. at Lines 7-9.

Like Mr. Bullock, Mr. Davis acknowledged that TELECOM did not assume any economics of scale that would occur if the companies they were testifying on behalf jointly negotiated agreements, or provide training with other companies. TR, Page 1007, Lines 12-20.

**C. Cost Testimony proffered by Mr. Williams.**

Ron Williams, testifying on behalf of Western Wireless, addressed the costs submitted by Petitioners and the subsequent public policy issues. Western Wireless Hearing Exhibits 9 and 19 present its cost analysis regarding Mr. DeWitte's companies. Western Wireless Hearing Exhibit 15 presents its costs information for the companies Mr. Bullock provided testimony. Western Wireless Hearing Exhibit 18 provides the cost information regarding the companies Mr. Davis testified.

Regarding the mechanism recommended by the Petitioners' cost experts to provide LNP service, Mr. Williams made it clear that the existing facilities should be maximized to save the Petitioners' money. Mr. Williams noted it was unnecessary and unreasonable to build an entire specialized infrastructure for LNP service when existing facilities could handle the service. TR, Pages 579 and 734. Mr. Williams presented a cost analysis using a reasonable and efficient mechanism. TR, Page 579. Id. See also Western Wireless Exhibits 9, 15, 18 and 19. While Mr. Williams used some of the estimates made by Petitioners cost experts, he questioned a number of them as being too high. Williams has experience in providing LNP and has noted that even beyond transport costs, Petitioners' costs seemed excessive. TR, Page 560.

The proposal by Western Wireless to use the Qwest tandem is low cost and can be quickly accomplished. Williams noted that in the MIC petition, Qwest had filed comments in

Minnesota wherein it said it could provide such a service within three weeks. TR, Page 631, Lines 22-25; TR, Page 699, Lines 1-9. *See* Western Wireless Hearing Exhibit 14, Page 2 of comments. Additionally, Qwest stated its desire to provide a transit service similar to the rural LECs in Minnesota. *Id.* The entire debate in Minnesota between the MIC RLECs and Qwest was whether Qwest would charge \$.0089 per minute or, the charge MIC RLECs wanted \$.00164 per minute use. *See* Western Wireless Exhibit 6, Page 6 of petition

Under examination by the Commission, Mr. Williams stated Western Wireless' LNP monthly surcharge is approximately \$.85 to its users. TR, Page 679, Lines 17-20.

The Commission expressed concerns about whether this is a situation where the cost causer was not paying the expense for the service. In response, Williams explained that when the FCC established the mechanism for providing LNP it envisioned every company charging for LNP use. TR, Page 561, Lines 1-8; TR, Page 621, Lines 2-20. Because of this, someone porting from a rural LECs may be causing costs to the rural LEC but the individual would pay the cost to the new provider. Thus, the cost becomes "socialized" over all companies with all users paying for LNP. *Id.*

### **III. Joint Filings.**

Mr. Bullock did not provide individual cost testimony for each Petitioner he represented. Rather, Mr. Bullock provided combined financial information for various companies. Specifically, Armour Independent Telephone Company, Bridgewater-Canistota Independent Telephone Company and Union Telephone Company applied for suspension or modification in one petition. Bullock then provided the financial information in one document incorporating all three companies together. *See* Bullock Prefiled Rebuttal Testimony, Exhibit R-1-TB. Similarly, Golden West Telecommunications Cooperative, Inc., Vivian Telephone Company and Kadoka Telephone Company filed a joint petition. Bullock merged all of their financial information

together and provided one set of numbers. Id. No breakdown for these individual companies was provided at the hearing nor does it appear in the record.

Commission staff inquired why the companies did not file separate studies as required by the Commission at its April 6, 2004 meeting. TR, Page 791, Lines 2-5. In response to staff's question, the corporate representative merely acknowledged that nothing in the record shows separate costs for any of these companies. TR, Page 792, Lines 17-19.

It was noted that there was no evidence presented by any of the Petitioners that any of the policy issues being represented were unique to these Petitioners. Rather, the policy arguments appear to be a general argument against LNP. TR, Page 557, Lines 1-7.

#### **IV. Public Policy.**

Petitioners submitted the testimony of Steven Watkins to address public policy. Mr. Watkins testified under cross examination at the hearing that his opinions were all general in nature and thereby not specific to any Petitioner. Further, he did not perform an independent evaluation of any of the Petitioners. Consequently, he offered no differentiation amongst any of the Petitioners, nor had he investigated any of the Petitioners' clientele. TR, Page 509, Lines 1-10.

Primarily, Mr. Watkins' testimony centered on his complaint that the FCC had not provided enough guidance or rules regarding how LNP should be implemented. TR, Pages 500-502. Additionally, he argued that there was no evidence of a demand for LNP. It appears he based this on the fact that he saw no "anecdotal experience" of LNP demand. TR, Page 499, Lines 2-3.

As to public policy concerns, Williams pointed out that these types of services are being demanded in rural America. TR, Page 693, Lines 19; TR, Page 692, Line 21. *See also* Western Wireless Hearing Exhibit 11 and 13. Further, the people of rural America are asking for the



same types of services that are being offered in metropolitan areas. Id. Regarding the actual migration given LNP, Williams pointed out that some forecasts had ranged from three to as much as 50 percent. TR, Page 645, Lines 13-14. Western Wireless had been experiencing approximately three percent migration per year in competitive markets where LNP had been implemented. TR, Page 624, Lines 15-19. This would amount to a 15 percent migration over a five year period.

Williams did concede some that of the Petitioners who will incur low numbers of envisioned ports and higher costs should be given additional time to become LNP compliant. To that end, he agreed that Kennebec, City of Faith, Western, Stockholm and Tri-County, all being approximately \$2 or over under Western Wireless' projections, should be granted more time to transition into LNP. He therefore acknowledged suspension for these entities until the end of March, 2005, would be appropriate. TR, Page 622, Lines 19-25; TR, Page 661.

## **ARGUMENT**

- I. Each Petitioner Bears the Burden of Proving that it is entitled to a suspension or modification of LNP by either proving (1) that such a suspension or modification is necessary to avoid a significant adverse economic impact, avoid imposing an unduly economical burden, or avoid imposing a requirement that is technically infeasible; and, (2) proving that as to the Petitioner, providing this LNP is not consistent with the public interest, convenience and necessity.**

Section 251(b)(2) requires all local exchange carriers provide LNP, to the extent technically feasible, in accordance with the requirements of the Commission. 47 U.S.C. § 251 (b)(2). Section 251(f)(2) provides local exchange carriers with fewer than two percent of the Nation's subscriber lines the ability to petition the State Commission for a suspension or modification of the LNP requirements found in § 251(b). It states,

A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) of this section to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the

extent that, and for such duration as, the State commission determines that such suspension or modification –

(A) is necessary –

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

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

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

47 U.S.C. § 251(f)(2). In 1998, South Dakota promulgated S.D.C.L. § 49-31-80, which adopted the requirements set forth in 47 U.S.C. § 251(f)(2). Under both, the party filing the petition bears the burden of establishing the above required factors. Iowa Utilities Board, 219 F.3d at 761.

The statute clearly requires the finding of two elements. First, the Commission must find that it is necessary to grant a modification or suspension to avoid one of the three factors enumerated under 47 U.S.C. § 251(f)(2)(A). In addition then, the Commission must find that such a suspension or modification is also consistent with the public interest, convenience, and necessity. It must be noted that the Commission’s power is limited to only granting a suspension or modification to the extent “necessary” to avoid one of the enumerated three factors.

Moreover, the Commission is under no obligation to grant a suspension or modification under § 251(f)(2) at all. The Commission should not grant each individual Petitioner’s request for suspension or modification unless that Petitioner demonstrates suspension or modification is necessary due to the existence of one of the above factors, and that such suspension or modification is consistent with the public interest. 47 U.S.C. § 251(f)(2). “In seeking an extension of the LNP deployment deadline, a carrier must provide substantial, credible evidence to support its contention that it is unable to comply with the deployment schedule.” In the Matter

of Telephone Number Portability Petition of the North-Eastern Pennsylvania Telephone Company for Temporary Waiver of its Porting Obligations, Order, 2004 WL 1066289, CC Docket No. 95-116, DA 04-1312 (*citing* 47 C.F.R. §§ 52.23(e) and 52.31(d)). “All of these determinations require an affirmative act and technical findings by the State commission before a decision may be reached.” Indiana Bell Telephone Company Incorporated v. Smithville Telephone Company, Inc., 31 F.Supp.2d 628, 632 (S.D.Ind. 1998) (*citing* 47 U.S.C. § 251(f)). Denial is the appropriate course of action if the requirements set forth in § 251(f)(2) are not satisfied. 47 U.S.C. § 251(f)(2).

Congress granted the states the authority to determine what is necessary to demonstrate the existence of the requirements of § 251(f)(2). To do so, the Commission must ensure its’ interpretation is consistent Congress’ intent supporting the promulgation of the statute. Indiana Bell Telephone Company Incorporated, 31 F.Supp.2d at 636-37 (*citing* Ingersoll-Rand Co. v. McClendon, 498 U.S. 133, 138 (1990)). In discerning intent, it is proper to consider the statutory framework as a whole and the objectives of the statute. Indiana Bell Telephone Company Incorporated, 31 F.Supp.2d at 637 (*citing* Crandon v. U.S., 494 U.S. 152, 158 (1990)). It is further proper for the Commission to rely upon guidance promulgated by the FCC, the agency tasked with implementation of the Act. Iowa Utilities Board, 219 F.3d at 748 (*citing* Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-43 (1984)).

In determining whether a petitioner has met its burden of establishing the need for a waiver of modification under 47 U.S.C. § 251(f)(2), the Commission must examine each Petitioners case individually. The text of § 251(f)(2) refers to, “A local exchange carrier....” Thus, the plain meaning of the statute requires that each individual Petitioner demonstrate the existence of the above factors before a suspension or modification can be granted under § 251(f)(2).

In conformance with the plain meaning of the statute, the North Carolina Utilities Commission has rejected joint submissions. In the Matter of Petition by the Alliance of North Carolina Independent Telephone Companies for Limited Modification of the Requirement to Provide Number Portability, Docket No. P-100, Sub 133r, State of North Carolina Utilities Commission Raleigh, (2003). It held,

While the Commission knows of no problem with the Alliance bringing these claims on behalf of its members, it would appear necessary for each *individual company* in the Alliance which wishes to benefit from this exemption to provide data showing that in fact the exemption is necessary for it to avoid significant adverse economic impact on users generally, to avoid imposing a requirement that is unduly economically burdensome, or to avoid imposing a requirement that is technically infeasible. Unfortunately, the Alliance's Petition contained no such individual data; instead the Alliance appears to argue that *any* imposition of what it believes to be a wrongful obligation *ipso facto* meets those tests. The Commission believes that Section 251(f)(2) requires more than this, especially since the proceeding must be concluded within 180 days of receiving the Petition.

Id. (*emphasis in original*). Consequently, under the plain meaning of § 251(f)(2), the Commission should reject all joint petitions that fail to delineate company specific data.

**A. 47 U.S.C. §251(f)(2)(A) requires that each Petitioner prove that action of the Commission is “necessary.”**

Under 47 U.S.C. §251(f)(2)(A), the burden is upon the Petitioner to prove the existence of one of three factors which would justify a suspension or modification. The statute only authorizes the Commission's action if the action is necessary to avoid one of these three events. The term “necessary” needs to be read in context with the statute. Cellular Telecommunications and Internet Association v. Federal Communications Commission, 330 F.3d, 502, 510 (US App. D.C. 2003). *See also* AT&T Corporation v. Iowa Utilities Board, 525 U.S. 366, 388-89 (1999).

The Eighth Circuit has already interpreted the term necessary under § 251. Iowa Utilities Board, 291 F.3d at 761. It indicated a formal interpretation of the term was intended. Id. In the context of this statute, “necessary” clearly should be read to require the Commission's action only if Petitioners cannot avoid one of the circumstances. Because the Commission action has to

be necessary, logically, the Commission must only order a suspension of the minimum length or the minimum modification to resolve the issue. Obviously, if a Petitioner purposely arranges for one of these three events to occur, it is not necessary for the Commission to act to avoid one of these events because Petitioner has brought the event upon itself. A Petitioner cannot be allowed to bring upon its own harm and then argue that action of the Commission becomes necessary.

**B. Significant adverse economic impact to telecommunications users.**

The first factor under § 251(f)(2) is significant adverse economic impact. 47 U.S.C. § 251(f)(2)(A)(i). The FCC has not promulgated definitional guidance regarding significant adverse economic impact. As a result, it is proper to consider the common meaning of the terms. Significant is defined as, "...having or likely to have influence or effect; important; of a noticeably or measurably large amount...." Webster's Ninth New Collegiate Dictionary, Merriam Webster Inc., 1096 (1991). Adverse is defined to be, "...opposed to one's interests...." Id. at 59. Economic is defined as, "...of or relating to a household or its management...." Id. at 395. Lastly, impact is defined to be, "...an impelling or compelling effect...." Id. at 603. As a result, Petitioners claims of significant adverse economic impact fail unless each Petitioner provides substantial credible evidence of a significant financial impact upon its users that is likely to be contrary to his/her financial interests. Indiana Bell Telephone Company Incorporated, 31 F.Supp.2d at 632 (*citing* 47 U.S.C. § 251(f)).

Several state PUCs have considered the impact of monthly costs upon their consumers. Although the resultant decisions are not binding upon the Commission, they do provide some guidance as to what has been deemed to be a "significant adverse economic impact." The Arizona Corporation Commission has found an end user direct cost of two dollars and ninety-three cents insufficient to be a significant adverse economic impact. In the Matter of the

Emergency Petition of Arizona Telephone Company for Suspension of the LNP Obligations of Section 251(b), Arizona Corporation Commission, Docket No. T-02063A-04-0010 (2004).

Moreover, the NY PUC has found failure to introduce concrete evidence of actual impact upon a LECs users fatal to a claim of adverse economic impact. It flatly rejected petitioners' claims of adverse economic impact upon users when those petitioners failed to produce any impact evidence. *See* Order Denying Petition, State of New York Public Service Commission, Case 03-C-1508 (2004). It stated,

FCC number portability orders permit incumbent local telephone companies to recover certain costs of providing number portability by charging their customers a monthly fee for a period of five years. Petitioners provided individual estimates of the cost of number portability to support their contention that intermodal portability is unduly economically burdensome. *However no company provided a detailed analysis of the impact on their respective customers in the petitions.* Using the company submissions, the Commission does not find a basis to conclude that there would be 'significant adverse economic impact.'

Id. (*emphasis added*). Failure to produce a detailed analysis of impact upon users should likewise be fatal to Petitioners' claims of significant adverse economic impact upon users in this case.

**C. Unduly economically burdensome requirement.**

The second circumstance is for the avoidance of an unduly economically burdensome requirement. 47 U.S.C. § 251(f)(2)(A)(ii). The Commission has been provided some guidance on what constitutes unduly economically burdensome as required in the tests found under both § 251(f)(1) and (2). *See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, Order, FCC 96-483 (1996). In that decision, the FCC has stated that in order to justify a suspension or modification, the proof must be sufficient to establish, "...burden beyond the economic burden that is typically associated with efficient competitive entry." Id.

The Eighth Circuit Court of Appeals has further fleshed out the unduly economically burdensome standard. The court has indicated a Commission must look to the whole of the burden, and not just a discrete part. Iowa Utilities Board, 219 F.3d at 761. In addition, the court noted that a Commission should also consider the fact that the LECs will, "...be paid for the cost of meeting the request and may also receive a reasonable profit pursuant to § 252(d)." Id. at 762.

Failure to introduce specific and supported information of economic harm is fatal to a claim of the existence of this element. Speculation and unsupported allegations of economic harm have been deemed insufficient to establish undue economic burden. *See* Clarification Order, Pennsylvania Public Utility Commission, 33 Pa.B. 1904, Doc. No. P-00971177 (2003). Speculation and unsupported allegations are insufficient because a finding of undue economic burden is not proper unless the PUC reaches sufficient technical findings. Indiana Bell Telephone Company Incorporated, 31 F.Supp.2d at 632 (*citing* 47 U.S.C. § 251(f)).

#### **D. Technical feasibility.**

The remaining basis to meet the first part of the test for a suspension or modification is technical infeasibility. 47 U.S.C. § 251(f)(2)(A)(iii). The FCC has defined the term technically feasible as it is intended to apply with respect to interconnections considerations under § 251(f). *See* 47 C.F.R. § 51.5. Specifically, § 51.5 states,

Technically feasible. Interconnection, access to unbundled network elements, collocation, and other methods of achieving interconnection or access to unbundled network elements at a point in the network shall be deemed technically feasible absent technical or operational concerns that prevent the fulfillment of a request by a telecommunications carrier for such interconnection, access, or methods. *A determination of technical feasibility does not include consideration of economic, accounting, billing, space, or site concerns, except that space and site concerns may be considered in circumstances where there is no possibility of expanding the space available.* The fact that an incumbent LEC must modify its facilities or equipment to respond to such request does not determine whether satisfying such request is technically feasible. An incumbent LEC that claims that it cannot satisfy such request because of adverse network reliability impacts must prove to the state commission by *clear and convincing evidence* that such

interconnection, access, or methods would result in specific and significant adverse network reliability impacts.

47 C.F.R. § 51.5 (*emphasis added*). Under the above regulation, the clear and convincing evidence standard applies. *Id.* “The ‘clear and convincing’ standard lies somewhere between ‘the rule in ordinary civil cases and requirements of our criminal procedure, that is, it must be beyond a reasonable doubt.’” In the Matter of the Medical License of Dr. Setliff, M.D., 2002 SD 58, ¶ 13, 645 N.W.2d 601, 604 (*citing* Kent v. Lyon, 1996 SD 131, ¶ 15, 555 N.W.2d 106, 111). Under this standard, Petitioners must introduce clear and convincing evidence of technical feasibility before this element can be satisfied.

The Commission should find the implementation of LNP technically feasible if Petitioners fail to demonstrate LNP is technically infeasible under a similar analysis as the above guidance. In addition, the Commission should disregard, “unsupported statements” regarding “unspecified existing technical limitations” as unpersuasive. *See* Order Denying Petition, State of New York Public Service Commission, Case 03-C-1508 (2004). Rather, the Commission must reach sufficient technical findings of technical infeasibility before this factor can be deemed established. Indiana Bell Telephone Company Incorporated, 31 F.Supp.2d at 632 (*citing* 47 U.S.C. § 251(f)). Without such findings, Petitioners technical infeasibility claims fail.

**E. If a Petitioner shows that Commission action is necessary because of technically infeasibility, significant adverse economic impact on its consumers or because an unduly economic burden will result to Petitioner, before acting the Commission must determine whether its actions are consistent with public interest, convenience and necessity.**

A suspension or modification is not properly granted under § 251(f)(2) unless the Petitioners establish that such a suspension or modification is consistent with the public interest, convenience and necessity. 47 U.S.C. § 251(f)(2)(B). Consistency with public interest alone is not enough to warrant a suspension or modification under § 251(f)(2). Petitioners must still establish the existence of a factor required under § 251(f)(2)(A). Should the PUC find



Petitioners fail to establish the three criteria necessary for suspension or modification, then consideration of public interest is not necessary. Id.

In making a determination of whether LNP is inconsistent with the public interest, convenience and necessity of a LEC service area, the Commission needs to look at the basis in a historical context of why LNP end service has been promulgated. In 1996, the FCC noted promotion of competition was one of the objectives of the 1996 Act. See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCCR 15499, Fcc 96-325 (1996). Congress recognized that LNP was critical to fostering competition. Id. The United States Supreme Court has also indicated that a purpose of the Telecommunications Act was to promote competition in local telephone markets. Reno, 521 U.S. at 857-58. The FCC continues to maintain the position that LNP is in the public interest. It has stated, “Implementations of LNP for CMRS providers has promoted, and will continue to promote, competition by allowing consumers to move to carriers that would better serve consumers’ needs without having to make the difficult choice to give up their number.” See In the Matter of Telephone Number Portability, Order, CC Docket No. 95-116 (May 7, 2004). As a result, the FCC has concluded that unnecessarily delaying implementation would improperly delay benefits to the public. Id.

In addition, state PUCs continue to recognize LNP to be, “...clearly in the public interest in a competitive telecommunications environment.” Order Denying Petition, State of New York Public Service Commission, Case 03-C-1508 (2004)(noting, “...number portability has consistently and repeatedly been found to be in the public interest at both the state and federal levels.”). The Michigan PUC has likewise denied a request to suspend or modify the requirements because it concluded that such action would be, “anti-competitive” and “anti-consumer.” See In the Matter 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, Michigan Public Service Commission, Opinion and Order, Case Nos. U-13956 and U-13958 (February 12, 2004).

When making a determination of whether Commission's actions would be consistent with the public interest, convenience and necessity, the Commission should only look to the individual Petitioner's area. It would be inconsistent with the Act and statutory scheme to somehow construe this test to be an analysis of LNP as a whole or LNP in rural areas as a whole. Rather, state Commissions need to look at the petitioning LECs area and the public interest, convenience and necessity within that area. To look beyond a petitioner's area, would be inconsistent with the language of 47 U.S.C. § 251(f)(2) where the evaluation concerns "a local exchange carrier."

**II. The Commission must deny any requests for suspension or modification from Golden West, Vivian Telephone Company, Kadoka Telephone Company, Armour, Bridgewater-Canistota Telephone Company and Union Telephone Company because the companies failed to provide individual company specifics upon which the Commission could base a decision under 47 U.S.C. § 251(f)(2)(A).**

Docket Number TC-045 is a joint petition filed by Golden West, Vivian Telephone Company and Kadoka Telephone Company. Docket Number TC-046 is a joint petition filed by Armour, Bridgewater-Canistota Telephone Company and Union Telephone Company. The corporate witness for all these companies testified that the Petitioners did not provide individual information on these companies. TR, Page 792, Lines 1-19. To meet the burden to prove the necessity for waiver or exemption, the statute clearly requires that "a local exchange carrier" must file with the state Commission. 47 U.S.C. § 251(f)(2). The State of North Carolina Utilities Commission has already recognized that failure to do so obligates the Commission to reject the petition. See In the Matter of Petition by the Alliance of North Carolina Independent Telephone Companies for Limited Modification of Their Requirement to Provide Number

Portability, Docket No. P-100, SUB 133R, State of North Carolina Utilities Commission, Raleigh, 2003. Furthermore, noted by staff counsel during the hearing, prior to the hearing, the Commission requested such individual information be provided. TR, Page 72, Lines 1-4.

The reason this information must be provided by each LEC becomes obvious when one reviews the standards that the Commission must judge the request for modification or suspension. The need to avoid a significant and adverse economic impact on telecommunications users must center on the LECs' customers. One cannot argue that the Commission must make this judgment on some broader scale. Clearly, the FCC and Congress have allowed LNP to go forth in a large portion of the United States. The only logical reading of the statute is to require the Commission to do an analysis of each LEC area for impact.

The same also applies in regard to imposing a requirement that is unduly and economically burdensome. It would be inappropriate for the LEC to somehow argue costs and economic burdens associated with LNP requirements in other areas somehow justify a modification or suspension for that particular LEC.

Further, the testimony of Mr. Law, the corporate representative on behalf of these various companies, illustrates the need to reject these joint petitions. When asked whether he was representing to the Commission that all these companies have the same demographic make-up, he clearly stated "No I am not." TR, Page 777, Lines 20-24. Even with the information submitted, one has to conclude there are significant differences between these companies.

Armour, which is geographically separated from the other companies that its financial information is commingled with, has only 583 access lines and has 33 lifeline customers. TR, Page 783, Lines 3-8. This equates to 5.66 percent of their access lines being lifeline customers. Union Telephone Company has 1600 access lines and only 38 lifeline companies. Making less than 2.5 percent of its customers lifelines customers. TR, Page 777, Lines 1-10.

Golden West, Kadoka Telephone and Vivian Telephone, may be located in contiguous areas but, there is no way for this Commission to ascertain whether LNP implementation in Kadoka is an extremely low cost because of limited numbered exchanges or an extremely high cost because of an older switches. The Commission's inability to make these determinations is a result of these companies failing to properly file their information individually. The plain language of the statute requires the Commission to consider each of these Petitioners individually. Petitioners have failed to provide information under which the Commission can make an individual determination. Therefore, under 47 U.S.C. § 251(f)(2)(A), these two petitions must be rejected outright.

**III. None of the Petitioners have met their burden to prove they are entitled to a suspension or modification under 47 U.S.C. § 251(f)(2) as the Petitioners have failed to submit the necessary evidence to support such action.<sup>3</sup>**

Petitioners' cost estimates should be rejected. The cost estimates are fundamentally flawed because they assume that LNP must be provided pursuant to an interconnection agreement. Because the costs of providing LNP service ripple throughout the standards that Petitioners have to prove under 47 U.S.C. § 251(f)(2), it is appropriate to address Petitioners' cost analysis as a threshold issue. All three costs experts presented by Petitioners conditioned their proposed LNP transportation system to meet in existing interconnection agreements.<sup>4</sup> Mr. Davis went as far to claim that Western Wireless' proposal was technically infeasible because Western Wireless' its interconnection agreement with Petitioners did not allow for traffic over the Qwest tandems. TR, Page 997. Lines 6-15.

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<sup>3</sup> While Western Wireless is contending that no Petitioner has actually met its burden in this filing, Western Wireless is not disputing that it stipulated in the record to a continuing suspension until May 31, 2005 for the City of Faith, Stockholm, Tri-County and Kennebec. See TR, Page 622 – 623, 661.

<sup>4</sup> A fourth cost expert was presented on behalf of Cheyenne River Sioux Tribe Telephone Authority. Since that matter has been settled, his analysis is not independently reviewed in this brief.

It is inappropriate for Petitioners' cost experts to condition LNP delivery on the existence of an interconnect agreement. The FCC has already determined interconnection agreements are not necessary to provide local number portability. *See In the Matter of Telephone Number Portability*, CC Docket No. 96-98, Order, 19 F.C.C.R. 875 (2004) at paragraph 1. In rejecting the need for an interconnection agreement to provide for local number portability, the FCC concluded

...that wireline carriers should be required to port numbers to wireless carriers without necessarily entering into an interconnection agreement because this obligation can be discharged with a minimal exchange of information. We thus find that wireline carriers may not unilaterally require interconnection agreements prior to intermodal porting.”

*Id.* at paragraph 34. In complete disregard to the FCC, Petitioners' cost experts require interconnection agreements. Consequently, they have come up with proposals that drive costs extraordinarily high in an attempt to convince this Commission that a significant adverse economic impact will occur on the users or that the requirement for LNP becomes unduly economically burdensome<sup>5</sup> and Petitioners meeting their LNP obligation is contrary to public policy.

As illustrated by the MIC petition in front of the Minnesota Public Utilities Commission, Petitioners could have taken the approach of providing this service at a low cost as MIC did in Minnesota. Some of the Petitioners, specifically Sioux Valley Telephone and Interstate Telecommunications, are members of MIC and were part of this original petition in front of the Minnesota Public Utilities Commission. While these individual Petitioners may have withdrawn from the Minnesota action after the hearing started in front of this Commission, it does not

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<sup>5</sup> It appears that Western Wireless is being penalized because they have an interconnection agreement with Petitioners. Because of this, defendants' experts claim you have to route LNP traffic pursuant to the existing interconnection agreement. Since the FCC does not require interconnection agreements, it would appear a wireless carrier who does not have an interconnection agreement with Petitioner would be treated better. It is incongruent to the total purpose of the Act to penalize people for entering into interconnection agreements.

diminish the fact that they could have taken the same approach to reduce the cost of providing LNP. *See* ITC Exhibit 9, Letter of June 23, 2004 to Minnesota Public Utilities Commission

Petitioners spend a large section of their brief dealing with the unresolved issue of transport. *See* Petitioners' Brief, Pages 30-40. The issue of transport runs throughout Petitioners' analysis. It has implications of whether there is a significant adverse economic impact, whether there is a resulting unduly economic burden and whether Petitioner' avoidance of their LNP obligation is in the public interest.

The difficulty with the analysis presented by Petitioners arises out of their all or nothing approach. For instance, Petitioners continually assail the Western Wireless suggestion to use existing tandem trunks, whether it be SDN or Qwest, rather than requiring hundreds of additional DS1s be installed. They complain that they are not "obligated" to route traffic over SDN or Qwest tandem trunks. At the same time, Petitioners wail about the install costs and monthly reoccurring costs associated with all the DS1s that they insist they must use to be conducive with their interconnection agreements.

It does not appear that Petitioners contest they have an obligation to route ported calls under the LNP constructs. Simply, they do not want to be obligated to deliver those calls by sending them over a tandem trunk out of their service area.

Providing LNP should not be examined as an all or nothing approach. The opportunity, not the obligation, exists to route ported traffic over existing facilities. The opportunity to use existing facilities reduces the monthly line item charge by as much as 90 percent as illustrated between calculations of Petitioners' experts and Western Wireless' expert.<sup>6</sup>

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<sup>6</sup> See for example, ITC Exhibit 4B, Interstate's LNP costs per line per month including transport is \$13.46 while under the Western Wireless transport analysis (See Western Wireless Hearing Exhibit 9) the LNP monthly per line cost including transport is \$.80.

Moreover, testimony was clear that a number of the Petitioners already have existing points of interconnect with wireless carriers. As Mr. Williams correctly pointed out, the same type of resolution used by James Valley could be available to these Petitioners, for example Interstate, since Western Wireless already has existing POIs.

Instead of finding a low cost effective way to provide for LNP traffic,<sup>7</sup> Petitioners' cost experts proposed creating new facilities and dedicating them to LNP. For example, a proposed remedy for Venture entailed the installation of well over 100 new type 2B DS1s. *See* DeWitte Prefiled Direct for Venture, Page 13. Mr. DeWitte's resulting cost numbers for Venture entailed \$486,000 for nonrecurring transport related costs and recurring monthly transport related costs of \$218,546. *See* ITC Exhibit 4B.<sup>8</sup> Under these numbers, in the first year alone for transport, Venture is trying to convince this Commission it would rather spend \$3,118,552 (\$496,000 plus 12 times \$218,546) than transport the traffic as recommended by Western Wireless.

Mr. Houdek contends this is necessary to maintain the integrity of his system and because under Western Wireless' proposal he would then have to potentially carry his competitors traffic for free. TR, Page 383, Line 22 through Page 385, Line 19. When Mr. Houdek complains that he might have to pay for transportation for Western Wireless under the MIC approach endorsed by Western Wireless in this filing, he wants this Commission to accept the premise that Venture should spend over 3.1 million dollars the first year to provide LNP rather than the \$25,000 in transport costs Venture would incur following the Western Wireless proposal. *See* Exhibit 9 (\$800 nonrecurring plus 12 times \$2,012 monthly recurring). Mr. Houdek's complaint that

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<sup>7</sup> In the MIC petition, it was presented to the Minnesota PUC that routing LNP traffic "can be accomplished efficiently and cost effectively, if such calls were routed via the same facilities used by the CMRS providers to deliver their traffic to the companies." Hearing Exhibit 6, Petition Page 5. Further, such a method of routing ported numbers was "technically sound, efficient and not unduly economically burdensome." *Id.* Petition, Page 9.

<sup>8</sup> Mr. DeWitte's original numbers showed a requirement of \$625,000 in initial costs and \$220,000 in recurring costs. After several errors in his calculations were pointed out to him, Mr. DeWitte's final numbers are reflected on ITC Exhibit 4B.

Venture would have to pay for the transport of LNP under Western Wireless' approach falls flat. Under his own experts' cost analysis, he is paying 3.1 million dollars in the first year to provide LNP call transport. Western Wireless over the Qwest tandem lines currently pays three tenths of one cent per minute. TR, Page 588, Lines 21-25. Even if one were to accept Mr. Houdek's argument that he might have to pay as much as \$.20 per minute to transport LNP calls, in the first year Venture would have to transport 15,592,760 minutes of LNP calls before it spent the same amount they are proposing to spend under Mr. DeWitte's proposal. This is the equivalent of 10,829.3 days of phone usage.

This same analysis applies to all Petitioners' cost estimates. Every Petitioner and every cost expert ratcheted up their transport costs as high as possible and refused to look at any alternatives.

In addition, every cost expert testified that he did not consider any economics of scale. Instead, they all assumed such things contractual negotiations to be required by all Petitioners with all wireless companies, whether the wireless companies were actually doing business in their territory or not.

A readily available example of this overstatement is how Mr. DeWitte treated the marketing flyer. He not only assumed that it would cost a dollar per line user per year to provide this marketing flyer, although Interstate's own documents show that they produced a monthly flyer at a quarter a piece, he assumed that all seven of his clients would each spend \$15,000 designing this flyer. He did not assume that one flyer explaining LNP could be designed for all his clients or even potentially all the Petitioners. TR, Page 153, Lines 1-25. Because the cost analysis presented by the Petitioners were clearly overstated, they should be disregarded by this Commission.



The waiver and modification statute, 47 U.S.C. § 251(f)(2)(A) requires a finding that Commission action must be necessary to avoid a significant adverse economic impact or unduly economically burdensome imposition. Commission action is not necessary in these petitions. Rather, the Petitioners hold in their hands the power to avoid causing a significant adverse economic impact on their own customers or imposing any kind of economic burden upon themselves.

- A. Each Petitioner has failed to show the Commission that its action is necessary to avoid a significant adverse economic impact on users of telecommunications services wherein none of the Petitioners provided any demographic information from their customer base and, with the exception of Kennebec, failed to provide any information on their customers' desires for LNP.**

In Mr. Bowar's prefiled direct testimony, he provided some information regarding a survey they had conducted on Kennebec's customer base. In that survey, Kennebec mailed out surveys to their customer base. It was left to the recipient's discretion to return the completed survey.<sup>9</sup> Bower Direct Page 2, Lines 12-15. Of the surveys mailed back, over one-fifth of Kennebec's customers said they would be willing to pay a surcharge of \$.50 per month to have an option for LNP. At \$1.00 per month, the demand was just short of twelve percent. No feedback was solicited regarding a rate of \$1.50. However, even at a surcharge of \$3 there were still 1.6 percent of the responding customers willing to pay for a LNP service. Bower Direct, Page 3, Lines 6-12.

As to the demographic information, Mr. Bowers testified that one in five residents of Kennebec and Presho are 65 years of age or older according to the 2000 U.S. Census. He compared this to one in eight or 12.4 percent of the United States. Bower Prefiled Direct, Page 5, Lines 3-6. The Kennebec interest is gauged at a lower income demographic in South Dakota.

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<sup>9</sup> Western Wireless would assert that people who do not want to pay extra fees generally will respond to these surveys as opposed to people who do not object extra fees and thus, people who want LNP are likely unrepresented in such a survey.

It is logical that if 12 percent of the customer base is willing to pay \$1 per month in a community such as Kennebec, then Petitioners with higher demographics and those closer to metropolitan areas would have increased interests and increased tolerance for these rate increases.

As unscientific as they are, these numbers support LNP implementation. Western Wireless predicts that they will see ports of three percent a year from wireline customers. A rate Western Wireless has observed in other areas. TR, Page 645, Lines 13-19. Over the five year projected cost analysis done by Western Wireless, it was predicted that approximately 15 percent would move over five years. As the testimony of Mr. Williams reflected, the desire for these types of services is growing in rural communities. TR, Page 693, Lines 19; TR, Page 694, Lines 21, *See also* Western Wireless Hearing Exhibits 11 and 13.

By Western Wireless' estimates, excluding transport, Alliance and Splitrock, Golden West, Vivian and Kadoka all have costs below \$.50. Mid-State's cost is only \$.54. *See* Western Wireless Exhibit 18. In this range, over 20 percent of the people in Kennebec wanted to pay for this option. As a comparison, Western Wireless customers pay \$.85 per month for LNP. TR, Page 679, Lines 17-20.

Several companies fell into a range of less than \$1 but more than \$.50. Brookings is only \$.76, excluding transport. *See* Western Wireless Exhibit 9. Interstate is only \$.62; Venture is only \$.59; McCook Telephone is \$.89; Sioux Valley is \$.62; and Valley Telephone is \$.63, excluding transport. *See* Western Wireless Exhibit 15. Santel is only \$.82. *See* Western Wireless Hearing Exhibit 19. None of these companies provided any type of polling or research on what their customers were willing to pay. Areas such as Brookings have a younger population than areas Kennebec and likely a higher household income. Based on these demographics, demand for LNP will be higher. *See* Exhibit 13.

All Petitioners except Kennebec relied on simply anecdotal, self-serving reports reported by company representatives suggesting that no one has bothered to ask them for portability. If 20 percent of the people in Kennebec and Presheo are interested in paying for number portability at \$.50 and twelve percent in those same communities are interested at \$1 per month, there is a substantial interest in number portability in this state.

Obviously, from the testimony submitted at the time of the hearing and from the briefs, Petitioners do not want to provide LNP. Petitioners know there is demand for LNP. Kennebec's survey demonstrated demand. *See* Bowar Direct, Page 3. Western Wireless' survey of its customers showed 16 percent were willing to switch land line service to wireless and 25 percent were unsure if they would make the switch. If individuals could take their land line number with them, common sense tells you a number of these people would chose to make that transition. *See* Hearing Exhibit 11. As noted by the FCC, "the focus of the porting rules is on promoting competition, rather than protecting individual competitors" In the Matter of Telephone Number Portability, CC Docket No. 96-98, Order, 19 F.C.C.R. 875 (2004) at paragraph 27. This Commission should disregard the cost proposals submitted by all the Petitioners in this case because they were created with an intent to avoid competition and avoid obligations of LNP. The cost studies were done in such a way to artificially create an impression that LNP was extraordinary expensive.

The company witnesses as a whole testified that they did an extensive investigation as to the economically feasibility of LNP. Yet, none of them contacted Western Wireless or any other cellular providers about how they could provide this service at low cost and only came up with one cost analysis. *See* TR, Pages 47-49, 315, 345, 376-377, 430-431, 433, 742, 782, 816, 829, 913, 984, 1046 and 1098. None of them asked wireless companies how they could lower transport costs or what might be an effective method to provide this service at a low cost. These

actions coupled with the over-the-top mechanisms suggested by the cost experts clearly imply that the Petitioners simply want to avoid providing LNP.

The Petitioners must show under this element that it is the Commissions actions are necessary to avoid a “significant adverse economic impact on the users of telecommunication services generally.” Any increase in fees arguably causes some economic impact. However, increase in competition actually nullifies some of the increase in fees by lowering costs to the public generally and providing better services. TR, Page 560, Lines 12-18. Petitioners have not demonstrated at what level an increase in fees creates an adverse economic impact. Therefore, Petitioners had not demonstrated the existence of this element.

**B. None of the Petitioners have shown how this Commission’s action is necessary for any Petitioner to avoid an undue economic burden where all the Petitioners have testified that they can pay for LNP.**

None of the Petitioners have taken the position that they cannot pay for implementation of LNP. Petitioners all freely admit that they believe they could cover at least the majority of their costs through an end user surcharge. TR, Page 558, Lines 15-18; TR Pages 89, 92, 313, 346, 378-379, 438-439, 742, 784-785, 816, 829, 953-954, 973, 984, 1047 and 1101.

As detailed above, Petitioners’ experts greatly overstated the costs of implementing LNP. Yet, Petitioners do not take the position they could not pay for it even at these exaggerated estimates. Some of the Petitioners complain that if they have to provide LNP it may slow down their rollout of other services, such as DSL. This is irrelevant to this analysis of undue economic burden. The test is not whether Petitioners would prefer to rollout a service where they had no competitors rather than provide LNP where they could lose some customer base. The standard is whether the Commission’s action is necessary to prevent the imposition of an unduly economically burdensome requirement. 47 U.S.C. 251(f)(2)(A)(ii).

The mere fact that these Petitioners do not want to provide LNP does not justify an undue economic burden. Similarly situated LECs have agreed to provide LNP services. Both James Valley and Cheyenne River Sioux Tribe Telephone Authority, during the pendency of these proceedings, agreed to provide LNP. Further, at least three LECs located in the State of South Dakota did not even apply for suspension or modifications. In all, Petitioners did not cite to anything that distinguished any one of them from other LECs that are providing this service, or from the other Petitioners in these filings that resulted in individual economic burden. Because of this, the Commission cannot find that any of the Petitioners met the standards required under the statute.

**C. Providing LNP for all Petitioners is technically feasible as all their cost experts have agreed that there are technically feasible ways in which to implement the service.**

In the absence of clear and convincing evidence of technical infeasibility, the PUC should reject Petitioners claims of the existence of the third prong delineated under § 251(f)(2). *See* Post-Hearing Brief of Petitioners and SDTA, pp. 3, 54; 47 C.F.R. § 51.5. Notably, Commission proffered a pre-hearing opinion that LNP is technically feasible.

Ms. Wiest: Thank you. Commission staff has not yet taken a position on any of the LNP Dockets. However, based on our valuation of the prefiled testimony we have arrived at some initial thoughts with respect to the standards that the Commission has to apply in these cases. One of the questions is whether the suspension is necessary to avoid imposing a requirement that is technically infeasible. Based upon our evaluation of the prefiled testimony, it's staff's belief that, no, it is not technically infeasible for any of the Petitioners to implement LNP. There are certainly costs associated with implementation and there appear to be routing and who pays issues that are not necessarily easy to resolve but it does appear that LNP can be implemented.

*See* Hearing Transcript, p. 38. Based upon the Commission's pre-hearing findings, it is apparent that Petitioners offered no clear and convincing evidence of technical infeasibility in their pre-file testimony.

Petitioners further failed to introduce any evidence of technical infeasibility in the hearing. Rather, all of Petitioners' witnesses testified that LNP is technically feasible.

Attorney Wieczorek: And when we talk about the technical cost issues you'd agree with me that, you know, LNP is technically feasible – can be technically done, it's all a matter of how much it costs.

Mr. DeWitte: That's correct. In no – I'm not going to tell you that it technically can't be done, at least for any of the clients that we're representing as part of these proceedings. And I think that you can take a look at anything, and the fact is if you throw enough money at it, yeah, you can make it work from a technical perspective.

*See* Hearing Transcript, p. 157.

Attorney Wieczorek: Yeah. But that's trunk groups. And I don't want to get into any confusion here but what you have proposed, your method, that's technically feasible today; correct?

Mr. Davis: That is correct, yes.

*See* Hearing Transcript, p. 997. Based upon the above excerpts, it is evident that the Petitioners' evidence supports feasibility. In fact, Petitioners introduced no evidence to indicate LNP is technically infeasible. Therefore, Petitioners repeated inferences of technical feasibility in their post-hearing brief should be categorically rejected as unsupported.

**IV. Even if a Petitioner demonstrates Commission action is necessary to avoid significant adverse impact, or imposition of an unduly economically burdensome requirement, or technical feasibility all the Petitioners failed to show how the Petitioner having to provide local number portability within its service area would be inconsistent with public interest, convenience and necessity.**

Under 47 U.S.C § 251(f)(2), a Petitioner must show how Commission action is necessary to avoid significant adverse economic impact or to avoid the imposition of an unduly economic burden, or technical infeasibility, before the Commission need even address whether providing the LNP is somehow inconsistent with public interest, convenience and necessity.<sup>10</sup> No where within the Petitioners' submitted testimony did they show how providing LNP services within

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<sup>10</sup> As all the Petitioners' cost experts admitted that LNP is technically feasible, it is not addressed in this section.

their service area would be inconsistent with the public interest, convenience and necessity.

Rather, Petitioners relied upon broad complaints against LNP.

Mr. Watkins freely admitted that he did no independent evaluation of any of the Petitioners. In fact, he contended that all of his opinions applied “evenly” to every Petitioner. TR, Page 509, Lines 1-4. He also freely admitted that nowhere in his testimony did he single out any specific Petitioner and talk about how LNP could impact it specifically in any certain way. TR, Page 509, Lines 5-9. He then went on to state no amount of cost would be reasonable because he did not believe there was any demand for LNP. TR, Page 511, Line 21 through Page 513, Line 3.

Mr. Watkins makes no distinction between the Petitioners where wireless service might be ubiquitous throughout their service areas and those where there might be parts of their service area with no wireless service. He makes no distinction on demographic information. He makes no distinction on whether the Petitioner serves a South Dakota urban community, such as Brookings, or a more rural area. Rather, he essentially simply complains that the FCC is not requiring interconnection agreements and that some of the issues are yet unresolved. TR, Page 502. And, thus, LNP should not be allowed.

Moreover, he claims there is no evidence of demand for LNP. He relies solely upon anecdotal experience in urban areas. TR, Page 499, Lines 1-3. He disregards the Kennebec survey results. He ignores the surveys submitted by Western Wireless showing the customer demand for portability. *See* Western Wireless Hearing Exhibit 11 and 13.

Basically, Mr. Watkins’ testimony is so broad and general it should be rejected. His opinions are not derived from any kind of review of these Petitioners’ situations or even the State of South Dakota. By his own admissions, his opinions supposedly apply evenly to a consumer who is in the suburbs of Sioux Falls and a consumer who is in a remote area of western South

Dakota. Mr. Watkins wants this Commission to believe that demand for LNP is the same in Faith as it is in Brookings, South Dakota. Yet, he has done no surveys. He cites no studies out of South Dakota. He cites no particularities as to why LNP would be inconsistent with public interest for any Petitioner. He simply does not think LNP should be allowed in South Dakota, or for that matter, anywhere else.

When looking at whether LNP is consistent with public interest, convenience and necessity, the Commission is not looking at this issue for the whole nation. 47 U.S.C. § 251(f)(2). It does not provide this Commission with the ability to redraft the Telecommunications Act of 1996. While Mr. Watkins would like to revisit LNP under the Act, this Commission's focus is that LNP impact on these Petitioners and the South Dakota consumers who these Petitioners serve.

One need only to look as far as Kennebec's own survey to see a desire for LNP portability as a service. In Kennebec evidence exists of a significant demand. Mr. Watkins ignores Kennebec's own survey and only talks about anecdotal experience. In doing so, his analysis becomes incomplete and irrelevant.

More appropriately, one needs to look at the fact that the competition created by local number portability will improve services to all users. As Mr. Williams testified, the ability to take that phone number that someone feels identified with to another carrier strengthens customer choice immensely. TR, Page 619, Lines 11-25. By strengthening consumer choice, one encourages businesses to satisfy the consumer. What is the demand for LNP in Brookings or in those areas outside of Sioux Falls or Aberdeen or Mitchell? Petitioners did not choose to provide that information. Rather, the remaining Petitioners simply offer this Commission generic complaints about LNP. None of the complaints deal with the facts that the public in



South Dakota is extremely mobile and, according to all the actual hard numbers provided to this Commission, interested in LNP services.

Furthermore, Petitioners are not currently providing LNP. There has not been any marketing to individuals promoting the competition. Education through marketing will increase the demand for LNP. That education cannot occur until Petitioners begin to provide the required service.

**V. Should the Commission determine a suspension or modification is warranted, the Commission should not grant any suspension or modification beyond 60 days from the date of the decision to become compliant with LNP.**

Western Wireless stipulated to the propriety of granting an extension until March 31, 2005 to Kennebec, City of Faith, Western, Stockholm and Tri-County as they all have implementation costs at approximately at \$2 or over based on Western Wireless' projections. James Valley Telephone and Cheyenne River Sioux Tribal Telephone Authority agreed to implement LNP in 90 days. In James Valley's situation, even though DeWitte had estimated in his prefiled testimony for James Valley that it would take several months to implement LNP, James Valley agreed it could become LNP compliant within 90 days.

Of the remaining Petitioners, none have provided a valid showing of why modification or suspension should be granted. Company representatives took the position that they fully investigated LNP before coming to this Commission with these Petitions. During the hearing, it became evident that most of the companies approach to the investigation was simply on how not to implement LNP. No substantial steps had been made to become LNP compliant.

Nonetheless, Petitioners have requested at least six months from any decision to implement LNP.

As Mr. Williams testified at the hearing, on most Nortel switches, which most Petitioners have, LNP software only needs to be activated. The software does not need to be installed. TR, Page 632, Lines 5-10. The Petitioners should not be rewarded for their attempts at trying to

build up reasons for this Commission to take action. Petitioners could have adopted a much more prudent, cost effective approach. For example, under Mr. DeWitte's plan, it was allegedly necessary for James Valley to provide LNP services to Western Wireless to have thirteen DS1s installed. Presently, James Valley is going to provide that service to Western Wireless using one DS1.

The Petitioners have the ability to avail themselves to the existing facilities in South Dakota, which are low costs alternatives, just like the RLECs have done in the MIC petition filed before the Minnesota Public Utilities Commission. In addition to the tandem solution, are the existing POIs. As Mr. DeWitte testified to in response to Commission questions, the way James Valley resolved its LNP obligations "merits evaluation by other carriers." TR, Page 238, Lines 4-5.

Rather than look to these alternatives, the Petitioners wholesale ask this Commission to simply give an open-ended extension of these suspensions. These suspensions are not tied to any dates certain but rather a six-month window after the rules are "finalized." However, no one could define for the Commission what "finalized" means.

When judging whether the Petitioners have met their burdens under 47 U.S.C. § 251(f)(2) in regards to the Petitioners use of available existing infrastructure, the tandems of SDN and Qwest and existing POIs with wireless carriers, the Commission should find the failure to meet their LNP obligations using these viable, low cost alternatives means Petitioners have not sustained their burden.

To reward other Petitioners who have held on to unreasonable proposals by granting them more than 60 days would only encourage such activities in the future. An Order by this Commission saying it will take no action for 60 days from the Order for noncompliance gives the

remaining Petitioners enough time to implement LNP in a low cost, efficient, and effective manner.

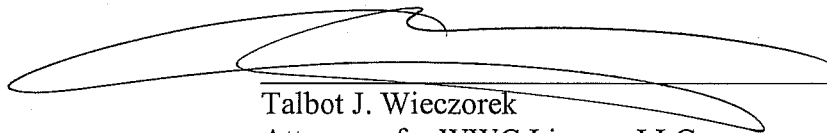
### CONCLUSION

For the reasons set forth above and the hearings in this matter, this Commission should grant to Kennebec, City of Faith, Western, Stockholm and Tri-County a suspension of their LNP requirements until March 31, 2005. As to the remaining Petitioners, the Commission should deny these petitions and enter an order setting forth it will take no action for 60 days but at the conclusion of 60 days, all Petitioners need to be compliant and provide LPN for their customers' benefit.

LNP is required under the Telecommunications Act of 1996. The fact that Petitioners may disagree with LNP implementation by Congress and the FCC does not reopen that issue in front of a state Commission.

Dated this 20 day of August, 2004.

GUNDERSON, PALMER, GOODSSELL  
& NELSON, LLP



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## CERTIFICATE OF SERVICE

The undersigned certifies that on the 22 day of August, 2004, I served a true and correct copy of the foregoing **WESTERN WIRELESS, LLC's POST-HEARING BRIEF** by email and NEXT DAY DELIVERY to:

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McCook Cooperative Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
City of Faith Telephone Company  
Midstate Communications, Inc.  
Western Telephone Company  
Interstate Telecommunications Cooperative, Inc.  
Alliance Communications Inc. and Splitrock Properties  
RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
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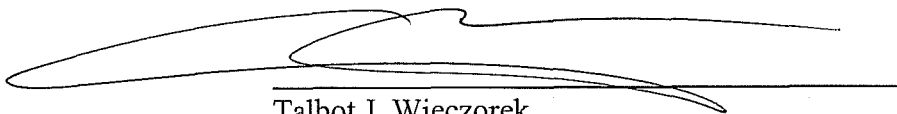
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A handwritten signature in black ink, appearing to read 'Talbot J. Wieczorek', is written over a horizontal line.

Talbot J. Wieczorek

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AUG 27 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

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August 27, 2004

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Ms. Pamela Bonrud  
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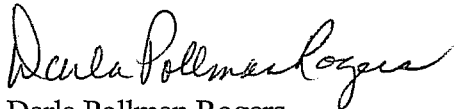
Re: Reply Brief of LNP Petitioners and SDTA

Dear Ms. Bonrud:

Please find enclosed herein original and ten copies of the REPLY BRIEF OF PETITIONERS AND SDTA in the LNP dockets.

By copy of this letter, I am also serving those persons named on the Certificate of Service attached to the Brief.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

CC: Talbot J. Wieczorek (with enclosure)  
David A. Gerdes (with enclosure)  
Richard D. Coit (with enclosure)  
Jeffrey D. Larson (with enclosure)  
Richard J. Helsper

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITIONS  
FOR SUSPENSION OR MODIFICATION  
OF §251(b)(2) OF THE COMMUNICA-  
TIONS ACT OF 1934 AS AMENDED

DOCKET NUMBERS:

TC04-025 Kennebec Telephone Co.  
TC04-038 Santel Communications  
TC04-044 Sioux Valley Telephone Co.  
TC04-045 Golden West, Vivian Telephone Co and Kadoka Tele Co  
TC04-046 Armour, Bridgewater-Canistota Tele Co and Union Tele Co  
TC04-047 Brookings Municipal Utilities d/b/a Swiftel Communications  
TC04-048 Beresford Municipal Telephone Company  
TC04-049 McCook Cooperative Telephone Company  
TC04-050 Valley Telecommunications Cooperative Association, Inc.  
TC04-051 City of Faith Telephone Company  
TC04-052 Midstate Communications, Inc.  
TC04-053 Western Telephone Company  
TC04-054 Interstate Telecommunications Cooperative, Inc.  
TC04-055 Alliance Communications Inc. and Splitrock Properties  
TC04-056 RC Communications, Inc., and Roberts County Telephone Cooperative Assn.  
TC04-060 Venture Communications Cooperative  
TC04-061 West River Cooperative Telephone Company  
TC04-062 Stockholm-Strandburg Telephone Company  
TC04-084 Tri-County Telcom

**RECEIVED**

**AUG 27 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**REPLY BRIEF OF PETITIONERS AND SDTA**

Submitted on behalf of the above-named Rural Local Exchange Carriers and  
the South Dakota Telecommunications Association

August 27, 2004

## **PETITIONERS HAVE CORRECTLY STATED THE LEGAL STANDARD**

Petitioners' initial brief contains a detailed discussion of this Commission's jurisdiction to adjudicate the suspension/modification petitions that are now before it (Id. pp. 6-8). Western Wireless' brief does not challenge the Commission's jurisdiction to grant or deny the petitions, as its witness, Mr. Williams, conceded this point at the hearing. (Tr. 659).

Once having crossed that bridge, however, Western Wireless draws in a number of state and federal decisions in an apparent attempt to fashion a slightly different statutory framework that fits its version of the facts. As is demonstrated below, Western Wireless' Brief on this score is largely irrelevant. It is a classic "strawman" argument, constructed for no other purpose than to distract.

Western Wireless begins its statutory argument with a lengthy recitation of the language of section 251(f)(2) itself (the suspension statute), as it notes that the party filing the modification/suspension petition bears the burden of proof, and then recites FCC and federal court decisions that have precious little to do with the matters before this agency (Western Wireless brief, pp. 17-20). The brief then concludes on this score that: "Consequently, under the plain meaning of § 251(f)(2), the Commission should reject all joint petitions that fail to delineate company specific data" citing In the Matter of Petition by the Alliance of North Carolina Independent Telephone Companies for Limited Modification of the Requirement to Provide Number Portability, Docket No. P-100, Sub 133r, State of North Carolina Utilities Commission Raleigh, 2003. (Id.) This reliance upon a decision by the state of North Carolina appears designed to fit Western Wireless' later argument that a joint submission on behalf of Golden West and certain affiliates should be rejected, and, indeed, the North Carolina decision is cited again in that portion of Western Wireless' brief (Id., pp. 26-27).



This reply brief later reveals the disingenuousness of Western Wireless' argument on the joint submission of affiliates; the assertion that the North Carolina decision is at all relevant merits some discussion here, however.

A review of the decision illustrates its irrelevancy. The petition covered by the North Carolina Order concerned a legal question as to whether North Carolina's independent telephone companies (The Alliance of North Carolina Independent Telephone Companies ("Alliance")) were required to implement LNP – particularly for wireless carriers – where no showing was made by the requesting carrier that the ported number would only be used within the rate center from which it was ported. It appears that no data, collective or otherwise, was filed, in sharp contrast to the instant record, to permit any sort of economic or public interest analysis. Of course, this context was not disclosed by Western Wireless when it plucked the language upon which it relies from the North Carolina Order. The first three sentences of the quoted paragraph, omitted by Western Wireless, further expose this misuse of the case: "Whether landline-to-wireless number portability of the type described is a valid requirement is a separate question from whether a rival company should receive an exemption from number portability requirements pursuant to Section 251(f)(2) of the Telecommunications Act. Section 251(f)(2) allows for an exemption for a rival company from even a lawful obligation. In this regard, the Commission does not believe that the Alliance made a threshold showing under the exemption provision of Section 251(f)(2) of the Telecommunications Act that it is entitled to such exemption." In short, the North Carolina decision involved a legal issue, rather than the factual showings made in this case. Hence, as a legal standard, it is a strawman and irrelevant.

Western Wireless' brief next launches into a discussion of the meaning of the word "necessary" found in section 251(f)(2)(a). (Western Wireless brief, pp. 20-21). The import of this

discussion in the context of legal standards appears to be Western Wireless' contention that: "A Petitioner cannot be allowed to bring upon its own harm and then argue that action of the Commission becomes necessary." (Id., p. 21.)

This argument is a bizarre eyewash intended to cloud the issue. Nowhere in the rest of Western Wireless' brief does it contend that Petitioners have arranged to bring economic harm on themselves, or their subscribers, so that they could then file and prosecute their suspension/modification petitions. That would necessarily be the case, since Western Wireless made no such claim during the hearing.

Western Wireless' advocacy of what the "significant adverse impact" standard means in section 251(f)(2)(A)(i) fares no better. (Western Wireless brief, pp. 21-22). In this respect, Western Wireless resorts to Webster's Dictionary to define "significant adverse economic impact" and concludes from its less than objective dictionary survey<sup>1</sup>: "As a result, Petitioners claims of significant adverse economic impact fail unless each Petitioner provides substantial credible evidence of a significant financial impact upon its users that is likely to be contrary to his/her financial interests" citing Indiana Bell Telephone Company Incorporated v. Smithville Telephone Company, Inc., 31 F.Supp.2d 628, 632 (S.D. Ind. 1998) (Id.).

This argument suffers from serious defects, chief among which is the citation to Indiana Bell. Petitioners have examined that case, and it does not stand for the proposition cited, or anywhere close to it. The case dealt with EAS arrangements between Ameritech and Indiana independents, and simply does not contain the proposition attributed to it by Western Wireless.

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<sup>1</sup> As an example, Western Wireless defines "impact" to be "...an impelling or compelling effect..." Western Wireless brief, p. 21. An additional definition of "impact" found in Webster's is "to impinge upon", which certainly differs from "compelling."

And, while Petitioners do not believe that Webster's Dictionary is an unreasonable source of authority to define words, we question the need to so carefully meter the meaning of "significant adverse impact" when the Commission's expertise will serve that very purpose. If Webster's is deemed necessary, Petitioners urge the Commission to take a more balanced view, as earlier discussed.

Western Wireless' brief next discusses its highly incorrect understanding of the "unduly economically burdensome" statutory modification/suspension element found in section 251(f)(2)(A)(ii). It states that the FCC's Local Competition Order defined this element to require proof of a "burden beyond the economic burden that is typically associated with competitive entry." The brief goes on to assert that the Eighth Circuit "fleshed out" this standard. (Western Wireless brief, pp. 22-23). This characterization is, to say the least, incomplete. In Iowa Utilities Board v. Federal Communications Commission, 219 F.3d 744 (8<sup>th</sup> Cir. 2000), the Court vacated FCC Rule 51.405(d) (47 C.F.R. § 405(d)). This section contained the proof requirement Western Wireless urges upon this Commission. This was not changed in the Supreme Court's review of that decision and the further decision on remand by the Eighth Circuit court. Iowa Utilities Board v. Federal Communications Commission, 301 F.3d 957 (8<sup>th</sup> Cir. 2002). Thus, the higher proof standard urged by Western Wireless has no lawful basis. Western Wireless again invokes Indiana Bell as instructive as to the meaning of "undue economic burden." (Western Wireless brief, p. 23). As previously discussed, however, the value of this precedent is nil given the passing reference made by the court to section 251(f)(2). In any event, the rule against "speculation and unsupported allegations" that Western Wireless attributes to this case is unremarkable.

The remaining standard discussed by Western Wireless under section 251(f)(2)(A) concerns the showing of technical infeasibility (47 U.S.C. § 251(f)(2)(A)(iii)). Western Wireless urges a novel standard of “clear and convincing” proof as to technical feasibility, which it then translates, based on South Dakota judicial precedent, as “beyond a reasonable doubt,” citing In the Matter of Medical License of Dr. Settliff, M.D., 2002 S.D. 58, 645 N.W. 2d 601, 604 (further citation omitted) (Western Wireless brief, pp. 23-24).

As Western Wireless has relied upon a demonstrably incorrect FCC Rule, the rest of its syllogism fails. As is evident from the text quoted by its brief, FCC Rule section 51.5 concerns the definition of “technically feasible.” That section defines the term by reference to “access to unbundled network elements” as the first sentence demonstrates.

As the Commission is no doubt aware, however, access to unbundled elements is an unbundling obligation contained in section 251(c), while the duty to provide Local Number Portability is contained in section 251(b) of the Communications Act of 1934, as amended. As such, the standard urged upon this Commission by Western Wireless is patently flawed, and should be rejected.

Relatedly, Western Wireless relies upon a New York Public Service Commission Order Denying Petition because the suspension and/or modification requests were “unsupported” as to technical infeasibility. (Western Wireless brief, p. 24). As Western Wireless has earlier recognized, however, those state decisions are not binding upon the Commission, but do provide some “guidance” as to the findings of other commissions. (Western Wireless brief, p. 21). In this vein, the Nebraska Public Service Commission’s Order Granting Suspension, Application Nos. C-3096 et seq. is at least as persuasive as a decision from a more urbanized state like New York. In Nebraska, the Commission found that, absent direct connects, intermodal LNP between a

CMRS provider and a local exchange carrier "...is technically infeasible at this time..." *Id.*, p. 7.<sup>2</sup>

In sum, the legal standard urged upon the Commission by Western Wireless is flatly unlawful. The Commission may easily find that LNP implementation is technically infeasible, just as have Nebraska *supra*, and the Mississippi Public Service Commission. See, Order, *Petition of Mississippi Incumbent Rural Telephone Companies for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act of 1934, as amended*; 03-UA-918.

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<sup>2</sup> Indeed, the value of other state decisions is probably best appreciated as a whole. For instance, Western Wireless' brief earlier points to an Arizona decision for the proposition that an end user cost of \$2.93/month was insufficient to constitute a significant adverse economic impact. Western Wireless brief, pp. 21-22. On the other hand, the Nebraska Order, referred to above, found surcharges ranging from \$0.64 to \$12.23, monthly, to all be excessive. *Id.*, p. 11. The Commission may review a more complete record of state activity, including a state-by-state survey of LNP suspension activity and decisions in the states, compiled by NeuStar and the National Association of Regulatory Utility Commissioners ("NARUC"), updated as of June 22, 2004. While an exact count is difficult, and the reader can draw his or her own conclusions, the summary report indicates that approximately 250 LNP suspension requests have been submitted in 38 states on behalf of approximately 786 LECs. It also appears that as of June 22, 2004, approximately 150 companies have been granted LNP suspensions for various periods of time; approximately 53 LECs were denied suspension requests; approximately 446 LECs were granted temporary suspensions while the overall merits of their applications are being considered; approximately 62 companies have LNP suspensions pending but have not been granted temporary relief during the interim period; and 75 LECs have withdrawn their petitions prior to final state commission action.

Of course, the status of that activity in each state is different and is based on the facts and circumstances of the carriers in those states, the specific suspension requests of those carriers, and the specific judgements made by the individual state commissions. Regardless of how one might tabulate the activity based on a review of survey, the majority of those states that have pending suspension requests have granted some relief to the rural LECs. And for the minority of the states that have denied the LNP suspension requests, it is not surprising that the state commissions have struggled with their decisions as a result of the FCC's less than adequate handling of its confusing LNP orders, the obfuscation of the wireless carriers, and the uncertainty surrounding the consequences of the unresolved issues.

Western Wireless' final argument on the subject of statutory standards concerns the public interest standard. This argument is addressed later in this Reply Brief.

**PETITIONERS HAVE MET THE REQUIREMENTS  
OF SECTION 251(F)(2)(A)(1).**

Pursuant to Section 251(f)(2)(A)(1), Petitioners have demonstrated that a suspension or modification of the LNP requirement is necessary “to avoid a significant adverse economic impact on users of telecommunications services generally.” As demonstrated in the Post-Hearing Brief (Brief) of Petitioners and supported by the cost exhibits and testimony filed by each Petitioner, each Petitioner has presented detailed information concerning the known costs that will be incurred to implement LNP, including switch software and hardware costs, LNP service order and query costs, and the technical and administrative costs associated with implementing LNP. As indicated by Staff in its Brief, “even without transport costs, the costs to implement LNP are considerable.”<sup>3</sup> Moreover, as stated by Staff and demonstrated by Petitioners, these costs will impact users of telecommunications services because they will be recovered either through the federal LNP surcharge on such users or increases in local rates.

Staff's Brief confirms Petitioners' argument that the only party to dispute the Petitioners' cost showings was Western Wireless and that Western Wireless only disputed a few cost elements. Even where Western Wireless did dispute certain cost elements, Staff confirms that Western Wireless' estimates of the cost of LNP, in many cases, are fairly close to the Petitioners' estimates.

Further, in its Brief, Staff supports the Petitioners' cost estimates disputed by Western Wireless.<sup>4</sup> Staff also supports the per-line, per-month impact of LNP as presented by the Peti-

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<sup>3</sup> Staff's Brief at 7.

<sup>4</sup> Id. at 17-31.

tioners.<sup>5</sup> Accordingly, Petitioners ask the Commission to find that the Petitioners' estimates of the known cost of providing LNP are reasonable and accurate. Further, the Petitioners ask the Commission to find that the estimated known per-line, per-month impact of LNP is as follows for each Petitioner (Petitioners have grouped the companies following the method used by Staff in its Brief):

GROUP 1

Faith \$3.10

Tri-County \$3.03

Stockholm-Strandburg \$4.99 to \$5.58

Kennebec \$3.45

Western \$3.97

GROUP 2

Armour/Bridgewater/Union \$1.44

Roberts County/RC \$1.23

Beresford \$1.27

McCook \$1.66

West River \$0.93 to \$1.04

Valley \$0.67

Midstate \$1.00

Sioux Valley \$0.71

Santel \$0.78 to \$0.87

GROUP 3

Brookings \$0.74 to \$0.83

ITC \$0.54 to \$0.61

Venture \$0.55 to \$0.61

Golden West/Vivian/Kadoka \$0.32

Alliance/Splitrock \$0.73

In their Brief, Petitioners argue that they meet the requirement of Section 251 251(f)(2)(A)(1) because the known per-line, per-month impact of LNP as reflected above would impose "a significant adverse economic impact on users of telecommunications services generally." Although Staff has grouped the Petitioners' into three groups depending on its evaluation of the cost of LNP versus demand, it appears that Staff supports the conclusion that all of the Pe-

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<sup>5</sup> Id.

tioners, even those whom Staff recommends should be required to implement LNP, have met this requirement. Thus, for Group 1, Staff states that the Petitioners' costs are "high."<sup>6</sup> Similarly, for Group 2, Staff states that the costs "are still considerable."<sup>7</sup> For Group 3, Staff states that "[g]iven the lower costs and higher expected demand, Staff does not believe that these companies meet the public interest standard." (emphasis added).<sup>8</sup> Thus, even for the Petitioners in Group 3, it appears that Staff found that the implementation of LNP should not be suspended because the Petitioners do not meet the public interest requirement in Section 251(f)(2)(B) and not because they do not meet the requirements of Section 251(f)(2)(A)(1) and (2).

In addition to the known costs of LNP, the Petitioners also presented evidence that there are a number of outstanding issues that could make the adverse economic impact of LNP on users of telecommunications services even greater. For example, the FCC is considering whether to shorten the porting interval for wireline carriers, which would significantly increase the cost of LNP. (Davis Ex. 1 pp. 18, 19; ITC Ex. 3 p. 18; Brookings Ex. 3 pp. 18, 19; Stockholm Ex. 3 p. 19; Venture Ex. 3 pp. 18, 19; West River Ex. 3 p. 18; SDTA Ex. 1 pp. 15, 36; Tr. pp. 897, 898) The FCC also is considering options to require wireless to wireline porting, which also would increase the cost of LNP.

In its Brief, Staff acknowledges that issues such as these could further impact the cost of LNP. As stated by Staff, "there are significant costs associated with the implementation of LNP and there are unresolved issues that could further impact those costs."<sup>9</sup> Staff also states that the Petitioners in Group 2 "would benefit from additional certainty in the process which would result

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<sup>6</sup> Staff's Brief at 16.

<sup>7</sup> Id.

<sup>8</sup> Staff's Brief at 17.

<sup>9</sup> Staff's Brief at 8.



when the FCC acts on issues such as porting intervals and transport routing issues.”<sup>10</sup> While Staff is correct with respect to Group 2, all Petitioners, including those in Group 3, would benefit from more certainty. Thus, even if the known per-line, per-month cost of LNP for certain Petitioners as stated above was not sufficient to meet the standard of Section 251(f)(1)(A)(1), the known cost plus the additional adverse economic impact that would be imposed by the outstanding issues supports a finding that the standard has been met.

The arguments of Western Wireless and Midcontinent in opposition to the evidence presented by Petitioners are wrong and should be rejected. In addition to the few cost elements challenged by Western Wireless, Western Wireless argues that the Commission should reject the cost studies of all Petitioners that filed a combined study for more than one company. According to Western Wireless, a combined study does not meet the requirement of Section 251(f)(2)(A) and, therefore, such companies have not met their burden. Western Wireless is simply wrong. The plain language of Section 251(f)(2)(A) does not require separate filings or impose a “penalty” when separate filings are not made. Rather, this Commission has the expertise to evaluate the merits of the information presented by each Petitioner for the purposes offered. Further, the Petitioners that filed consolidated cost studies did so because of the consolidated nature of the companies’ operations. Therefore, a consolidated filing more accurately reflects the costs that the individual companies will incur, and the resulting impact on their end users. Petitioners note the irony of Western Wireless’ argument in that elsewhere, Western Wireless argues that the Petitioners’ cost studies are flawed because unrelated Petitioners did not assume economies of scale by consolidating certain functions with other Petitioners. Yet, when affiliated entities with common operations prepare cost studies to reflect those common operations, Western Wireless argues that the studies should be rejected.

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<sup>10</sup> Staff’s Brief at 16.

Midcontinent's position also is wrong and should be rejected. Midcontinent argues that the cost of transport, which primarily involves intermodal LNP, is significant and possibly even greater than the other costs associated with LNP. Therefore, Midcontinent incorrectly concludes that "the cost of providing intramodal LNP is not such that it represents an adverse economic impact on users of telecommunications services generally, [or] imposes a requirement that is unduly economically burdensome..."<sup>11</sup> Midcontinent reaches this faulty conclusion by simply ignoring the Petitioners' cost studies and brief which clearly show that the cost of LNP is significant even when the cost of transport is not included and that the non-transport LNP costs would impose "a significant adverse economic impact on users of telecommunications services generally." As demonstrated earlier in this reply brief, it appears that Staff supports Petitioners on this point.

Furthermore, Midcontinent has ignored the cost exhibit presented by ITC which shows that the per-line cost of providing LNP for Midcontinent in the Webster exchange is even greater than the cost of company-wide LNP. This is so primarily because most, if not all, of the non-transport costs of LNP would have to be incurred to provide LNP in only one exchange. Those costs, however, only could be assessed to the lines in the Webster exchange and not all ITC lines. Accordingly, contrary to Midcontinent's position, the cost of providing intramodal LNP as requested by Midcontinent imposes an even greater adverse economic impact on users of telecommunications services generally.

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<sup>11</sup> Midcontinent's Post Hearing Brief at 3.

Thus, Petitioners ask that the Commission find that each Petitioner has met the requirement of Section 251(f)(2)(A)(1) and that a suspension of the LNP requirement is necessary “to avoid a significant adverse economic impact on users of telecommunications services generally.”

**PETITIONERS HAVE MET THE REQUIREMENTS OF SECTION 251(F)(2)(A)(2).**

Petitioners also have met their burden under Section 251(f)(2)(A)(2) and demonstrated that a suspension of the LNP requirement is necessary “to avoid imposing a requirement that is unduly economically burdensome.” It is unduly economically burdensome to require Petitioners to implement LNP when a number of implementation issues are not resolved. It would be more efficient and less costly to implement LNP only once, after the LNP parameters are more certain, rather than require carriers to implement LNP when important issues are unresolved (such as the requirements of wireless to wireline porting), or could be changed (such as whether the porting interval will be reduced).

Changes to the LNP requirements that would impose new LNP costs after Petitioners are required to implement LNP also will impose a requirement that is “unduly economically burdensome” because it is very likely that Petitioners would be unable to recover these costs through the authorized federal LNP surcharge. Under the current FCC rules pertaining to the establishment of a “monthly number-portability charge” the charge is to be “levelized” over five years, or in other words must remain constant over that period. There are no provisions in the FCC rule relating to LNP cost recovery (47 C.F.R. § 52.33) that permit revision to the established monthly number portability charge, should actual LNP related costs change over the 5 year period that the charge is to be in effect and the FCC has indicated that requests to change the surcharge will not be granted readily.

As shown, LNP implementation also would result in the assessment of a new LNP surcharge on end users and could increase local rates. These actions would make Petitioners' service offerings less competitive with the services provided by wireless and other competitive carriers. In addition, if the total cost of LNP is assigned to Petitioners' subscribers through a surcharge and local rate increases, some segment of their subscribers may discontinue service or decrease the number of lines to which they subscribe. The resulting reduction in line count would increase further the per-subscriber cost of LNP, which, in turn, could lead to more rate increases followed by additional losses in lines. Ultimately, Petitioners may not be able to recover the costs of LNP from their subscribers, which would reduce the Petitioners' operating cash flow and profit margins.

Finally, if the appropriate transport arrangements are not implemented, wireline to wireless porting under current routing protocols would impose an unduly economically burdensome requirement by making the network less efficient and by confusing consumers which could result in reduced calling. If direct connections are not established, calls to ported numbers will be routed to an interexchange carrier and the calling customer will incur a toll charge. The local exchange network also will be less efficient as a result of porting because end users who continue to dial a ported number on a seven-digit basis will likely receive a message that the call cannot be completed as dialed, or a message instructing the party to redial using 1+ the area code. Thus, callers would have to dial twice, with the resulting network use, to place one call.

Thus, Petitioners ask that the Commission find that each Petitioner has met the requirement of Section 251(f)(2)(A)(2) and that a suspension of the LNP requirement is necessary "to avoid imposing a requirement that is unduly economically burdensome."

**PETITIONERS SHOULD NOT BE REQUIRED TO TRANSPORT  
CALLS BEYOND THE LOCAL SERVICE AREA.**

Petitioners have demonstrated that they have no legal obligation to transport traffic to points beyond their service territories, whether the traffic is associated with a ported number or not. Thus, under the provisions of 47 U.S.C. §251(c)(2)(B), incumbent LECs are required to provide interconnection only at a “technically feasible point within the carrier’s network.” The Petitioners’ position also is supported by the plain language of the *November 10 Order*.<sup>12</sup> In its Order, the FCC acknowledged that LNP raised certain routing issues for rural carriers where no direct connection exists and that these issues would be addressed in a pending Petition for Declaratory Ruling filed by Sprint Corporation.<sup>13</sup>

In its Brief, Staff states that “the Commission should find that an RLEC is *not* responsible for the cost of transporting LNP traffic outside of its exchange area” and that “[a] local exchange company should not be required to transport local exchange calls beyond its local exchange area.”<sup>14</sup> Petitioners wholeheartedly agree with and support this aspect of Staff’s recommendation. Accordingly, Petitioners urge the Commission to modify their LNP obligation pursuant to Section 251 of the Act to clearly state that each Petitioner is not required to transport calls beyond its local exchange area.

Staff further states, however, that the Commission should not require direct connections, nor should it require any specific routing method. Rather, “the RLEC and the requesting carrier will negotiate the method of transport, knowing that if the routing method requires transport of the call outside of the RLEC’s area, the requesting carrier would be responsible for those trans-

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<sup>12</sup> *In the Matter of Telephone Number Portability*, CC Docket 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (released Nov. 10, 2003) (November 10 Order).

<sup>13</sup> In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs, CC-Docket 01-92, Petition of Sprint, May 9, 2002 (*Sprint Petition*).

<sup>14</sup> Staff’s Brief at 10.

port costs.”<sup>15</sup> Staff states that it believes “that the settlement agreements in James Valley and CRST demonstrate that the parties are in the best position to determine how to route LNP traffic.”<sup>16</sup>

In connection with this aspect of Staff’s recommendation, Petitioners make the following comments. First, it must be remembered that in the James Valley and CRST settlements, Western Wireless either had or agreed to establish a direct connection with the LEC. For example, the Stipulation between CRST and Western Wireless, and approved by the Commission, states that “[t]he Parties agree that CRST shall deliver calls to numbers ported to a wireless carrier as local calls only when the wireless carrier establishes a direct connection with CRST.”<sup>17</sup> Further, the Stipulation states that CRST will offer the same terms and conditions to other wireless carriers requesting LNP. If a wireless carrier rejects the terms and conditions, i.e., refuses to establish a direct connection, then the parties can petition the Commission for modification of the Order entered pursuant to the Stipulation.

Second, although there are other potential transport options, such as Western Wireless’ proposal, none has been fully examined by the Parties to establish that they are feasible. Therefore, if a direct connection is not required, it is not clear that negotiation of this issue will be achieved easily or quickly. In other words, for any carriers that are required to implement LNP, it is not a foregone conclusion that a successful negotiation of the transport issue will be achieved. This could result in a LEC spending thousands of dollars to implement LNP before calls to ported numbers can be transported as local calls. And, as established by Petitioners, if

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<sup>15</sup> Id. at 11.

<sup>16</sup> Id.

<sup>17</sup> Stipulation, Docket No. TC04-085, at 1.

such transport is not established, calls to ported numbers will be routed to interexchange carriers and assessed a toll charge. Petitioners believe that such a result is not in the public interest.

Therefore, Petitioners request that the Commission modify the Petitioners obligation to only require the implementation of intermodal LNP if the wireless carrier establishes a direct connection and after the Parties have successfully negotiated transport. In the alternative, a study group could be convened to examine the proposed transport options that wireless carriers request to determine the feasibility of such options. If a study group is convened, Petitioners request that the Commission suspend the LNP requirement until an acceptable transport option, or options, is determined through the study group process.

If the Commission does not accept Staff's recommendation, then as demonstrated by Petitioners' in their Brief, cost exhibits and testimony, the possible imposition of transport responsibility on them does nothing but further support their suspension and/or modification requests because it drives up costs, both to customers and/or the companies themselves.

The Petitioners' cost exhibits contain estimates for the recurring and non-recurring cost of transport, which essentially is the cost of installing facilities to enable calls to ported numbers to be routed as local calls. Western Wireless, and to some extent Staff, criticize the way the Petitioners assumed transport facilities would be implemented, and the resulting cost of those facilities. Western Wireless also argues that the Petitioners' cost exhibits should be rejected because they are based on the interconnection agreements and such agreements are not required.

Petitioners maintain that the criticisms are unfounded. As demonstrated, Petitioners based their transport methodologies on current network configurations and relationships and, therefore, they are reasonable. Contrary to the argument of Western Wireless, Petitioners do not maintain that interconnection agreements are required for LNP. Nor do they argue that current

interconnection agreements could not be modified (although Petitioners note that Western Wireless has not requested modification of any of the agreements it signed with Petitioners). However, the fact remains that Petitioners cannot unilaterally change the current agreements that they have with Western Wireless and other wireless carriers. Therefore, any transport scenario, such as the one proposed by Western Wireless, that does not conform to current arrangements between carriers and its associated costs, are pure speculation and cannot be the basis for a reasoned and rational decision.

Staff also comments on the number of wireless carriers for which Petitioners calculated transport costs. This is a factor in the cost of transport because every wireless carrier that requests LNP will require transport facilities and, therefore, the more wireless carriers the greater the cost of transport. What must be remembered when considering this issue, is that once a LEC is required to provide LNP, it is required to provide it to all requesting carriers (unless, of course, the Commission otherwise has modified the LEC's requirement). Therefore, the Petitioners were conservative in their estimates of transport to the extent that they were limited to wireless carriers currently operating in the LECs service area when in fact the Petitioners could face transport costs for all wireless licensees in their service area.<sup>18</sup>

Staff notes that Western Wireless' projected cost of transport is less than Petitioners. In addition to the other objections to Western Wireless' transport proposal (namely, Western Wireless' routing methodology does not currently exist; it involves an entity not a party to this proceeding; and it has not been shown to be feasible), Western Wireless' projected cost of the proposal does not consider the additional financial impacts that would be imposed on rural LEC op-

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<sup>18</sup> There is a potential of eleven (11) or more CMRS providers in each geographical area consisting of 2 Cellular, 6 PCS, and 2 700 MHz, and at least 1 SMR. The Petitioner's analysis only included transport costs for carriers (like WWC, Verizon, Sprint, Nextel, and others) that have announced intentions of entering the market in the next five (5) years.



erations. Specifically, Western Wireless' proposal for transport not only would make Petitioners responsible for the costs of transport to the Qwest access tandem, but, by allowing for a bypass of the existing toll network, it also would affect Petitioners' access and toll revenues.<sup>19</sup>

Western Wireless suggested at the hearing that the impact of its transport proposal would be small because of the small number of expected calls to ported numbers. However, while the number of calls to ported numbers (served by wireless carriers) is expected to be small given the lack of demand for intermodal LNP, this is a fraction of the total traffic that is at stake. Thus, any decision imposing transport responsibilities on rural LECs beyond their existing network would impact all traffic—including calls to wireless users who do not have a ported number, calls to CLECs, and calls to Qwest customers.

Thus, it is clear that the transport issue not only would increase the cost of LNP, it would have a tremendous adverse impact on end-users and Petitioners. Accordingly, Petitioners request that this Commission conclude, as the Nebraska Commission recently has, that indirect connections are technically infeasible presently, and that the resulting costs "...would either be an additional significant adverse economic impact on end users or would be an economic burden on the local exchange carriers..." *Nebraska Order* at 7, 10-11.

**GRANT OF THE REQUESTED SUSPENSIONS/MODIFICATIONS IS CONSISTENT  
WITH THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY**

As noted in Petitioners' Brief, in addition to meeting at least one of the criteria listed in 47 U.S.C. § 251(f)(2)(A) relating to adverse economic impacts or technical infeasibility, in order for any request for suspensions and/or modification to be granted, it must be "consistent with the public interest, convenience and necessity." (47 U.S.C. § 251(f)(2)(B)). As testified to by Petitioners' and SDTA's witness, Steven E. Watkins, a determination of the public interest relating

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<sup>19</sup> Brief at 38-39, (see Tr. pp. 385, 391, 425, 399, 400, 405, 406, 413, 414, 422). (Tr. pp. 424) (Tr. pp. 204, 478). (Tr.

to the LNP suspension petitions that have been filed inherently involves a cost versus benefit analysis. (SDTA EXH 1 p. 8, TR pp. 497-505). Commission Staff in its Brief indicates agreement with this type of analysis, stating that “the Commission needs to conduct a cost versus demand analysis when considering the public interest.” (Staff’s Brief p. 7). With regard to the additional “public interest” criteria that must be applied, Petitioners believe that the evidence presented in this matter leaves no doubt that the public interest is, in fact, best served by granting each of the requested LNP suspensions.

Western Wireless contends in its brief that “no where within Petitioners’ submitted testimony” was it shown “how providing LNP services within their service area would be inconsistent with the public interest, convenience and necessity.” Petitioners find this statement incredible. There is overwhelming evidence in the record before this Commission to support an affirmative public interest finding with respect to each of the LNP suspension petitions that has been filed.

As all parties seem to agree, fundamental to any analysis of the benefits of LNP is a review of evidence relating to demand for the service. It is clear from the record in this matter that there presently is little, if any, demand for intermodal LNP within any of the Petitioners’ service areas. Petitioners presented evidence from the national administrator of LNP, NeuStar, that confirms little demand for intermodal LNP even in non-rural areas. Petitioners also presented evidence that demand in rural areas is likely to be less because of the poor wireless service quality in rural areas. Petitioners also presented company specific evidence that few or no customers have requested or inquired about LNP even though it was widely reported in the press. Petitioners note that even though Western Wireless has implemented LNP, it presented no evidence concerning the number of ports it has experienced for wireless to wireless porting or for intermodal

porting. Further, even though Western Wireless operates in all of the Petitioners' service areas, it presented no evidence to indicate that any of its customers or potential customers have requested LNP in those service areas. Petitioners believe that the Commission can consider Western Wireless' failure to present contrary evidence as further proof in support of Petitioners' claims on this issue.

In addition, Petitioners presented evidence that the costs of LNP are significant and, it is apparent from the record in this matter, at the present time there are a number of substantial issues related to the provisioning of LNP that have not yet been resolved by the FCC, which will impact further LNP implementation costs. Given these unresolved issues, it is obvious that the Commission cannot at the present time even quantify the full cost of LNP implementation and, consequently, cannot evaluate what would be the full end-user and/or rural carrier impacts.

Under these circumstances, given the almost complete lack of demand for intermodal LNP in the Petitioners' service areas and taking into account the significant cost of LNP and the unresolved issues relating to LNP that will affect LNP implementation costs further, Petitioners cannot understand how this Commission could reasonably determine that granting the requested suspensions is not in the public interest. For all of the reasons set forth in Petitioners' Brief, there is good reason to conclude that granting each of the LNP suspension petitions would be consistent with the public interest standard established under the federal law.

In its brief, Western Wireless continues to suggest that this Commission in its review of the public interest must give primary emphasis to the promotion of competition. As pointed out in Petitioners Brief, although one purpose of the Telecommunications Act of 1996 was to promote competition for local exchange services, a second primary purpose was to protect universal service. Further, Congress realized that competition, as promoted by the FCC, may not be the

best course in rural areas and the provisions of Section 251(f)(2) were clearly put into the Act for this reason. State Commissions are specifically given authority under Section 251(f)(2) to suspend and/or modify any of the requirements contained in §§ 251(b) and 251(c) of the Act (including interconnection and other service requirements that were specifically imposed for the purpose of promoting local service competition). Indeed, the very purpose of the suspension and modification provisions contained in Section 251(f)(2) is to allow state commissions to override, in effect, rules related to competition. This being the case, it is obviously insufficient, for purposes of addressing Section 251(f)(2)'s public interest standard, to claim that the implementation of LNP is necessary to promote competition.

Furthermore, the claims of competitive benefits made by Western Wireless are simply not substantiated by the evidentiary record because it is clear that there is little, if any, demand for LNP in the Petitioners' service areas. If there is no demand for the service, how can it reasonably be determined that consumers would benefit by making the service available? How does diverting carrier resources in order to bring consumers a choice they do not want provide a consumer benefit?

The Nebraska Public Service Commission, in recently granting a suspension until January 20, 2006, to many of the rural local exchange carriers in that state, specifically addressed claims made by Western Wireless that LNP is necessary to provide greater consumer choice. Order Granting Suspension, Nebraska Public Service Commission (*Nebraska Order*) dated July 20, 2004, Application Nos. C-3096 *et. Seq.* The Nebraska PSC concluded, "[w]hile the Commission acknowledges that introduction of competition into telecommunications markets is a key policy of the 1996 Telecommunications Act, without any evidence that demand for intermodal

LNP exists and thus, that consumer choice is being thwarted, this Commission must assign greater weight to another Congressional policy of the Act.” See, *Nebraska Order*, page 14.

In addition, the claims of Western Wireless that this Commission, in conducting its public interest analysis, must give emphasis to the competitive benefits of LNP are inconsistent with the recent letter issued by FCC Chairman Michael Powell which speaks to the state review of LNP waiver request under the provisions of 47 U.S.C. § 251(f)(2). (Venture Exh. No. 4). In that letter, directed to the Honorable Stan Wise, President National Association of Regulatory Utility Commissioners, Chairman Powell specifically referenced concerns about the possible economic burden that intermodal number porting may place on LECs that are small businesses, particularly those in rural areas; and it further urged state commissions in their review under Section 251(f)(2) to “consider the burdens on small businesses in addressing those waiver requests.” Very clearly, this letter confirms that the analysis required under Section 251(f)(2) must go beyond simply considering the competitive benefits and must also focus on costs/burdens associated with providing the telecommunications service.

To support its argument that granting the requested suspensions would not be in the public interest, Western Wireless also selectively cites to decisions of the New York Public Service Commission and Michigan PUC indicating that those states have denied requested LNP suspensions on public interest grounds. As testified to by Mr. Watkins, there is LNP suspension activity in many states throughout the United States and, contrary to the perception that Western Wireless attempts to create, the majority of states have found merit in suspending LNP obligations for the smaller LECs. (SDTA Exh. No. 2, pp. 6, 7). Western Wireless conveniently fails to mention the recent Nebraska Order, where our neighboring Nebraska PSC determined that each LNP suspension applicant had met its burden of proof and shown that “suspension of the re-

quirements of the Intermodal Order is consistent with the public interest, convenience, and necessity.”<sup>20</sup> Similarly, there is no mention of the “Finding and Order” of the Ohio Public Utilities Commission that granted a temporary waiver to the applicant rural LECs in that state “until the LNP obligations of the small, rural local telephone companies and the role of the state commissions is clarified” by the FCC. In the Matter of the Application of the Following Companies for Suspension or Modification of the Federal Communications Commission’s Requirement to Implement Wireline-Wireless Number Portability Pursuant to 47 U.S.C. § 251(f)(2): Minford Telephone Company, et. al., Case Nos. 04-428-TP-UNC, et. Seq. (Ohio Order). The Ohio Commission, in considering the public interest, specifically commented on all of the uncertainties presently surrounding intermodal LNP implementation, concluding that “without completing [its] financial review and without knowing whether wireline-to-wireless LNP is something which applicant’s customers would find beneficial, it is hard for the Commission to judge at this point whether the benefits to be gained by applicant’s customers with intermodal LNP, outweigh the potential increased rates applicants’ customers will have to pay.”<sup>21</sup> Contrary to the picture portrayed by Western Wireless, many states have already granted a waiver or suspension of the LNP requirements to rural carrier applicants operating within their jurisdictions. The NeuStar report, referenced herein, confirms this fact.

Western Wireless in its brief criticizes the testimony of Mr. Watkins as being too “broad and general.” It is alleged that the testimony is “not derived from any kind of review of these Petitioners’ situations or even the State of South Dakota” and argued that the testimony should be rejected by this Commission. These statements challenging the foundation and/or value of Mr. Watkins are ridiculous. First, Petitioners would note that the argument is surprising because it

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<sup>20</sup> *Nebraska Order* at 14.

<sup>21</sup> *Ohio Order* at p. 16.

appears that Western Wireless is now attempting to make some foundational argument related to Mr. Watkins' testimony, yet at the hearing prior to the admission of Mr. Watkins' testimony no similar argument was presented. Western Wireless' counsel did not object to the admission of Mr. Watkins' prefiled testimony. More importantly, however, these statements simply are a misrepresentation of the record insofar as they attempt to portray Mr. Watkins as being unfamiliar with the South Dakota Petitioners' circumstances and unable to testify as to the actual impact that LNP implementation issues will have on each of their operations.

Substantial information is presented on the record as to Mr. Watkins' background as an individual whose entire career has been devoted to serving smaller telecommunications firms which provide service to small-town and rural areas. (SDTA EXH 1, Attachment A, pp. 1, 2). He has since 1996 been self employed as a consultant assisting specifically smaller, rural, independent local exchange carriers and competitive local exchange carriers in their analysis of regulatory and industry issues, including issues related to universal service mechanisms, interconnection requirements, and cost recovery. Prior to that time he was employed by the National Telecommunications Cooperative Association (NTCA) for 12 years working as Senior Industry Specialist. NTCA is a national trade association representing approximately 500 small, locally owned and operated rural telecommunications providers. Before his employment began with NTCA, Mr. Watkins worked for the consulting firm of John Staurulakis, Inc.. which also specializes in providing regulatory assistance to small local exchange carriers. Mr. Watkins' background information indicates that he has 28 years of experience in the telecommunications industry, all focused on assisting small and rural LECs. To argue as Western Wireless has that Mr. Watkins' testimony and the information and conclusions provided therein are not based sufficiently on the circumstances faced by the Petitioners in this case, ignores Mr. Watkins' extensive

experience in the rural telecommunications industry, and his familiarity gained through that experience with South Dakota's rural carriers.

In claiming that Mr. Watkins' testimony is not specific to any Petitioner, Western Wireless also claims that Mr. Watkins did no "independent evaluation" of any of the Petitioners. Apparently, Western Wireless counsel reaches this broad conclusion from the following question and answer occurring during Western Wireless' cross-examination of Mr. Watkins during the hearing:

Q. Okay. And as I have read your testimony, nowhere in your testimony do you single out a specific Petitioner and talk about how LPN may impact it specifically financially.

A. No. (TR p. 509.)

Petitioners strongly object to the claims by Western Wireless suggesting that Mr. Watkins did no evaluation, at all, concerning the South Dakota Petitioners. Western Wireless has obviously exaggerated the above cited answer given by Mr. Watkins, and has completely ignored the fact that Mr. Watkins' testimony was provided in conjunction with the testimony of other Petitioners, and that Mr. Watkins' testimony concerning specifically the costs of LNP for rural carriers in South Dakota, the consumer demand for LNP in South Dakota's rural areas, and the transport and routing issues is based on the information provided by the testimony of other Petitioner witnesses. A review of Mr. Watkins' testimony indicates very clearly that this is the case. SDTA EXH pp. 9, 10, 14, 15, 19, 20, 36, 37; TR p. 512, 518. Mr. Watkins reached his conclusions that support a finding that each LNP suspension request meets the federal standards, including the public interest standard, based not only on his general knowledge as an expert working for rural carriers across the United States, but also based on carrier-specific information provided by the other Petitioner witnesses in these proceedings. It is simply wrong for Western



Wireless to suggest that Mr. Watkins' testimony is non-specific and not based on the actual circumstances faced by the Petitioner LECs.

With regard to Staff's analysis of the public interest, convenience, and necessity standard, which is designated by Staff as the "final standard" under 47 U.S.C. §251(f)(2)(B) (Staff Brief at 6), Petitioners concur in part with Staff's analysis and disagree in part with Staff's analysis. Further, as discussed below, Petitioners concur in part with Staff's application of the public interest test, but Petitioners disagree with Staff's conclusion that some companies should not receive a suspension.

#### A. Cost/Benefit Analysis

Petitioners concur that this Commission must determine that a suspension or modification is consistent with the public interest, convenience, and necessity. Petitioners also concur that the public interest analysis involves a cost/benefit analysis:

The Commission believes that its determination of the public interest in these cases inherently involves a cost versus benefit analysis. Nebraska Public Service Commission Order Granting Suspension, Page 13. (July 20, 2004) ("Nebraska Order").

The Commission must consider the overall public interest in determining whether the requested relief should be granted . . . it is hard for the Commission to judge . . . whether the benefits to be gained by applicants' customers with intermodal LNP, outweigh the potential increased rates applicants' customers will have to pay. Public Utilities Commission of Ohio, Case Nos. 04-428-TP-UNC through 04-449-TP UNC, Finding and Order, Page 16 (July 20, 2004) ("Ohio Order").

#### 1. Lack of Demand

Petitioners further concur with Staff that "[a] critical element in the analysis of whether LNP requirements should be suspended is whether the costs of LNP can be justified given the demand for the service." (Staff Brief at 10). "An analysis of the benefits of such implementa-

tion turns on whether there is a demand for intermodal LNP among the telecommunications users served by the applicants.” (Nebraska Order at 13).

Petitioners would point out that the overwhelming evidence presented through prefiled testimony and at the hearing was that, in most cases, there is no demand for LNP.

Stockholm-Strandburg:

Q. And have you had any demand for LNP from your customers?

A. (By Ms. Nowick) No, we have not. (TR 344).

Venture:

Q. . . . have you had very much demand for LNP?

A. (By Mr. Houdek) To my knowledge, no customers have asked for wire-line-to-wireless LNP. (TR 414).

West River:

A. (By Mr. Reisenauer) Being a cooperative or a member-owned organization, our goal is to provide those services that benefit our members. And after reviewing the LNP issues with our board of directors, we determined that the lack of request for porting of wireline number to wireless carrier, the excessive costs associated with implementing local number portability and the obvious lack of benefit to our members it was in our best interest to request a waiver . . . (TR 429).

Q. Do you believe that LNP would be beneficial to your consumers at this point, your customers?

A. I don’t believe there’s a demand for LNP and I don’t believe it’s beneficial at this point, no. (TR 446).

Golden West et al.:

A. (By Mr. Law) . . . we feel that the local number portability issue in this Docket is a high-cost, low-demand avenue . . . (TR 770).

Armour et al.:

A. (By Mr. Law) . . . Armour, Union and Bridgewater-Canistota feel that the economic burden of implementing local number portability greatly

outweighs any demand or consumer benefit for these areas . . . (TR 771).

Sioux Valley:

- A. (By Mr. Law) . . . the implementation of local number portability would be an undue economic burden on the company and its consumers for virtually a minimum benefit. (TR 772).

Golden West, Armour, and Sioux Valley:

- Q. What has been your experience with regard to demand by your customers for LNP?
- A. (By Mr. Law) . . . I have received no requests from any customers from the affected companies for local number portability (TR 806).

Alliance – Splitrock:

- A. (By Mr. Snyders) . . . we feel that because of the low customer demand and high cost of LNP we are not interested at this time in implementing LNP. (TR 814).
- Q. If there were demand from your customers for LNP, you would hear about it or know about it, would you not?
- A. That would be correct. (TR 822).

McCook:

- A. (By Mr. Roth) I feel in the absence of customer requests for LNP, the high cost and the low demand of it, McCook Cooperative Telephone should not be required to provide intercompany LNP. (TR 825).

Kennebec:

- A. (By Mr. Bowar) . . . We have conducted a survey and the results overwhelmingly indicate that a majority of my customers do not want to pay for LNP at any price . . . Bottom line, LNP implementation would have an extreme adverse impact with little or no benefit. (TR 949).
- Q. (By Ms. Wiest) What do you think is the main reason for the lack of demand?
- A. The coverage is not good. There's lack of coverage and lack of demand. My customers see no need for this. (TR 947).

Midstate:

- A. (By Mr. Benton) I do not believe implementing wireline-to-wireless LNP is in the public interest based on the fact that Midstate has not received requests to date. The demographics of our area do not support implementation and internally we struggle with justifying the cost versus the benefit of implementing LNP to our members. (TR 969).
- Q. (By Mr. Wiczorek) Do you understand that Mr. Davis has projected 60 ports a year for your company for the first five years of LNP?
- A. I think he had to populate it with something. I think zero would have raised a red flag. (TR 973).

Beresford:

- A. (By Mr. Hansen) Since we have received no customer requests for LNP it would seem that there is little interest, necessity or customer demand for the convenience of LNP. As such, it would seem to be in conflict with the public interest to require the implementation of LNP at this time because of the kind of costs that would be involved. (TR 982).
- Q. (By Mr. Lewis) . . . you said that basically there's no customer interest for LNP, correct?
- A. To the best of my knowledge, no. (TR 985).

Roberts County:

- A. (By Ms. Harrington) . . . we have had no requests or demand for local number portability in our areas, and the cost of implementing it is significant and we feel that would be a detriment to our customers. (TR 1044-45).

See also Santel Ex. 1, Page 3. The managers for ITC, Swiftel, and Valley indicated their respective companies had received one or two inquiries regarding wireline to wireless LNP. (TR 43, 294, 748).

While Petitioners appreciate Staff's point that "accurately estimating LNP demand, especially for wireline to wireless ports, is fairly difficult," (Staff Brief at 13), the overwhelming evi-

dence presented at the hearing by the managers who are in daily contact with their customers is that there is virtually no demand for LNP. Evidence of demand was also uncontroverted by Intervenor. WWC did not supply any company-specific empirical evidence on the issue of demand, and Midcontinent presented no evidence whatsoever on the issue.

Staff appears to ignore this plain, unrefuted evidence of clear lack of demand for LNP, which is paramount to a determination of public interest. “An analysis of the benefits of (LNP) implementation turns on whether there is a demand for intermodal LNP among the telecommunications users . . . ” (Nebraska Order at Page 13, emphasis added). Thus, Staff’s arrival at “a more realistic number” that “might be around one and one-half percent for the more densely populated areas that have adequate cellular coverage,” is not consistent with the evidence presented at the hearing, which indicates no or minimal demand. (Staff Brief at 13, emphasis added).

## 2. Other Factors Affecting Public Interest

While demand for LNP by end users is paramount, other factors can affect that demand, which ultimately has an impact on application of the public interest test.

### (a) Density of population in an exchange.

Petitioners concur with Staff’s acknowledgment that the density of population in an exchange can affect the cost/benefit analysis of implementation of LNP (Staff Brief at Page 13). Despite this acknowledgment, however, Staff fails to consider density of population in its application of the public interest benefit. As will be discussed more fully below, the number of access lines a company has does not mean that the density per line is greater. Golden West, for example, has a high number of access lines, but very low density per line. (Golden West Ex. 1 and 2).

### (b) Adequacy of cellular coverage.

Another factor that clearly impacts demand for LNP is the adequacy of cellular coverage, which Staff also acknowledges at one point in its Brief (Staff Brief at 13). In addition to the Commission's personal knowledge of the quality of cellular service in rural, low-density areas of South Dakota, there was evidence submitted at the hearing and in prefiled testimony of lack of cellular service in some of the areas and its effect on demand for LNP. For example, Marjorie Nowick from Stockholm-Strandburg testified to people making cellular calls into her service area because of "better call service" in bigger cities, while landline service is "better quality" within her service area. (TR 361). Rod Bowar from Kennebec cited lack of coverage as a reason for no demand by his customers for LNP.

Q. (By Ms. Wiest) What do you think is the main reason for the lack of demand?

A. (By Rod Bowar) The coverage is not good. There's lack of coverage and lack of demand. My customers see no need for this. (TR 947).

Additional evidence of lack of cellular coverage came from Valley's manager, Steve Oleson: "Valley's service area has approximately 25 percent or less cellular coverage . . ." (TR 740-741).

(c) Unresolved FCC issues.

It is uncontested that there are issues relating to LNP and provisioning of LNP that have not yet been resolved at the FCC level. The unresolved issues clearly impact the cost/benefits analysis. This has been recognized by other State Commissions when dealing with suspension or modification requests.

In balancing the costs and benefits at stake in this case . . . we believe that the Applicants continue to face the technical obstacles observed by the FCC in its January 16, 2004, Order . . . by granting the suspension requested, the carriers may avoid wasting resources while the clarification necessary to effectively and efficiently implement wireline to wireless number portability is undertaken on the federal level. Nebraska

Order, Pages 13-14.

[T]he Commission finds that the economic burden to the Independents and their respective end users is not justified until further issues resolution is forthcoming from the FCC and the courts with respect to the Independents' intermodal porting obligations. The *November 10 Intermodal Order* and the *2% Order* do not displace the need for this underlying policy consideration. Instead, the issuance of these decisions underscore the need for the Commission to determine whether the economic burden and the potential adverse economic ramifications for rural telecommunications users are outweighed by any speculative competitive public interest benefits. Mississippi Public Service Commission, 03-UA 918, Order, at ¶15 (May 24, 2004).

Clearly, the impact of future FCC decisions affects the public test, and that applies to all Petitioners.

#### B. Application of Public Interest Test

As noted above, Petitioners concur with some portions of Staff's Application of the public interest test, but disagree with other portions of its application of the public interest test.

Staff's analysis of demand does not take into account the clear and uncontroverted evidence presented by the managers. Instead, Staff appears to review the evidence of cost consultants and arrive at its own "guesstimate" of demand:

A more realistic number might be around one and one-half percent for the more densely populated areas that have adequate cellular coverage. Staff would expect the percentage to be lower in less densely populated areas with less than adequate cellular coverage. (Staff Brief at 13, emphasis added).

Staff's use of the words "might be around" to describe possible number of ports clearly is speculative at best, and fails to acknowledge actual evidence presented of lack of demand.

Further, despite Staff's reference to more densely populated areas and lack of coverage, Staff appears to apply the one and one-half percentage in a straight multiplication of the number of a company's access lines. The illogical result of this methodology is that for all large compa-

nies, Staff recommends denial of suspension, for medium-sized Staff recommends shorter suspension, and for small companies, Staff recommends a longer suspension. That methodology is not a valid comparison. Spreading the costs over a larger number of subscribers is not an accurate application of the cost versus benefit analysis. Furthermore, Staff, for the most part, failed to recognize the other factors it acknowledged affected demand, such as density of population and quality of service. Finally, Staff failed to uniformly apply the unresolved FCC issues to all Petitioners, even though resolution of the issues by the FCC will affect every Petitioner.

Petitioners would submit that Staff failed to apply the public interest test uniformly and consistently to each “group” (arbitrarily assigned) of companies. All carriers clearly established lack of demand. There was no evidence presented that a continued suspension would adversely impact consumers. All carriers demonstrated that LNP is costly. The fact that carriers with larger numbers of subscribers have the ability to spread the costs to more people begs the public interest question. What is the benefit to the consumer? Whether the cost to each consumer in a small exchange computes to more and the cost to each consumer in a larger company may be less because it is spread over a larger group, the fact remains that each consumer ends up paying for a service for which the evidence in the record establishes no demand exists. As stated by one of the managers, “Some of our lower income or elderly people that don’t have a cell phone, don’t ever care to have a cell phone, certainly don’t care to port numbers. You know, you put 25 cents on their bill, that’s too much.” (TR 395).

Further, Petitioners note that Staff proposes a different recommendation for companies for which LNP will impose the same per-line cost and for which Staff estimates demand at the same percentage level (i.e., Brookings and Alliance/Splitrock and Santel and Sioux Valley).



Staff also failed to acknowledge that unresolved FCC issues affect all Petitioners, including the larger carriers for whom Staff recommends no suspension. Petitioners submit that it is in the public interest for all Petitioners to be granted a suspension of the requirement to implement LNP until the FCC clarifies outstanding issues. Such action would be consistent with the Orders from other State Commissions.

[T]he Commission finds that the economic burden to the Independents and their respective end users is not justified until further issues resolution is forthcoming from the FCC and the courts with respect to the Independents' intermodal porting obligations. (Mississippi Order, ¶15).

[I]n light of the current uncertainty relative to the economic burden of small, rural, local exchange companies, the Commission believe that it is appropriate to grant a temporary waiver in the pending applications until the LNP obligations of the small, rural, local telephone companies and the role of the state commissions is clarified. (Ohio Order, ¶10).

All of the Petitions pending before this Commission are from "small, rural, local telephone companies." Some are smaller than others, but the "potential economic burden on [South Dakota] companies and their customers" must cause this Commission great concern. Coupled with the lack of evidence of adverse impact to customers, and evidence of lack of demand for LNP, this Commission should grant a suspension to all Petitioners.

#### **IMPLEMENTATION TIMEFRAMES IF ANY IMPLEMENTATION OF LNP IS ORDERED AT ALL**

In Petitioners' initial brief and in this reply brief, it has been demonstrated that LNP is not justified. And in their initial brief, Petitioners requested that the current suspensions remain until cost and demand are better balanced from a public interest perspective. Further, suspensions should remain until a time no earlier than the courts and the FCC resolve outstanding LNP issues, including rulemakings, and that some period of time be allowed to provision hardware and software, and administrative processes. (Petitioners also seek confirmation that, under no

circumstances will they be required to transport calls outside their local calling areas.) (Petitioners initial brief, pp. 54-55).

Both the Staff brief, and the Western Wireless brief, contain different positions as to when LNP implementations should occur – both different from Petitioners’ position and different from each other. Foregoing sections of this brief support the Petitioners’ suspension/modification requests. This section concerns their positions vis-à-vis the timing of any LNP implementations, should any occur at all.

In this respect, Western Wireless urges that all companies, except for three non-settling companies, be required to implement LNP within 60 days from any Order requiring LNP implementation. It says, without any elaboration, that a grant of more than 60 days would “reward” other Petitioners “who have held on to unreasonable proposals.” (Western Wireless brief, p. 42). That Western Wireless’ proposed 60 day rule is purely arbitrary can be seen by its inconsistent agreement, with James Valley and the Cheyenne River Sioux Tribal Authority, to LNP suspension for 90 days. (*Id.*, p. 41) The 60 day proposal of Western Wireless thus should be rejected as having no basis in either law or fact.

In any event, Petitioners note that James Valley and CRST could implement LNP in approximately 90 days because they already had started the implementation process. For example, James Valley already had completed the necessary software upgrades to the switching equipment to provide LNP for their CLEC operations. Thus, it is clear that 90 days would not be sufficient for carriers, such as Petitioners, that have not begun the implementation process.

The staff brief takes a more logical approach than Western Wireless, assuming arguendo that any LNP implementation should be required before the events described in Petitioners’ initial brief, and alluded to earlier. Specifically, staff recommends that three implementation

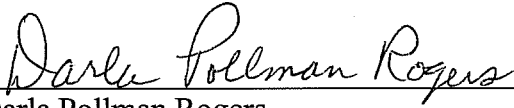
schedules obtain. For one group of companies, the implementation schedule would begin almost immediately. For another group of companies, implementation would begin May 24, 2005 -- a one year extension from the original implementation date. For the third group of companies, implementation would begin May 24, 2006. (Staff brief, pp. 15-17).

The substantive reasons for continuing the suspension of all companies, as originally requested, are discussed elsewhere in this reply brief, and are not repeated here. Assuming any implementation were to occur at all as a result of this proceeding, however, Petitioners respectfully suggest that May 24, 2006, be used as that date. This request is grounded upon the practical consequences of what is likely to happen if May 24, 2005, is used as the earliest implementation date for companies obtaining further suspensions. Assuming a written Commission decision issues in this matter during the month of September, 2004, there only will be nine months to assess whether circumstances have changed to warrant further action by the Commission. This period of time can easily be filled with assimilating the continuing fall-out from the FCC's pending rulemakings on porting intervals and wireless to wireline porting, not to mention the tasks needed to track hardware and software costs, and the further softening (or firming-up) of consumer demand for intermodal LNP. In short, the parties and the Commission are likely to become engaged in the time and resource consuming process of re-evaluation of LNP almost as soon as the ink is dry on any Commission Order. Petitioners respectfully submit that, if any implementation is ordered at all, such not occur until May 24, 2006, at the earliest, so that at least 1-1/2 years' worth of experience can be gained before this matter is re-evaluated.

### **CONCLUSION**

For all of the foregoing reasons, Petitioners respectfully request this Commission to suspend and modify each Petitioner's obligation to implement local number portability.

RESPECTFULLY SUBMITTED this twenty-seventh day of August, 2004.



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Kennebec Telephone Company  
McCook Cooperative Telephone Co.  
Midstate Communications, Inc.  
RC Communications and Roberts County  
Sioux Valley Telephone  
Stockholm-Strandburg Telephone  
Tri-County Telcom  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the original and ten copies of the foregoing REPLY BRIEF OF PETITIONERS AND SDTA upon:

Ms. Pamela Bonrud  
Executive Director  
SD Public Utilities Commission  
500 East Capitol Ave.  
Pierre, South Dakota 57501

and a copy upon the persons herein next designated, on the date below shown, via e-mail, and by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to each said addressee, to-wit:

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE LOCAL	)	ORDER TEMPORARILY
NUMBER PORTABILITY	)	SUSPENDING LOCAL NUMBER
SUSPENSION DOCKETS	)	PORTABILITY OBLIGATIONS
	)	
	)	TC04-025, TC04-038, TC04-044-
	)	056, TC04-060-062, TC04-084

Between February 12, 2004 and April 23, 2004, petitions in the above-numbered dockets were filed by the rural local exchange carrier petitioners (Petitioners) pursuant to 47 U.S.C. Section 251(f)(2) and SDCL 49-31-80 seeking suspension or modification of their requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. The Commission issued orders granting intervention to WWC License LLC d/b/a CellularOne and the South Dakota Telecommunications Association in all of the above dockets and to Midcontinent Communications (Midco) in dockets TC04-038, TC04-044, TC04-050-051, TC04-054-056, and TC04-060-061. Midco subsequently withdrew from dockets TC04-056 and TC04-061. The Commission issued orders granting Petitioners' requests for interim suspension of their obligation to implement LNP pending final decision pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80. On June 21-July 1, 2004, a hearing was held on these matters and dockets TC04-077 and TC04-085, which have been settled, in which rural LECs seek to suspend their obligations to implement LNP. On July 15, 2004, the Commission issued orders temporarily suspending the LNP obligations of Kennebec Telephone Company and Santel Communications Cooperative, Inc. until September 7, 2004, in order to accommodate the briefing and decision schedule. On August 31, 2004, the Commission voted unanimously to grant Petitioners' requests for suspension of intermodal LNP obligations until December 31, 2005, and deferred decision with respect to intramodal number portability. Commissioner Burg dissented from that part of the decision establishing a definite date for termination of the suspension.

The Commission has jurisdiction in this matter pursuant to SDCL 49-31-80, Section 251(f)(2) of the Telecommunications Act of 1996, 47 U.S.C. § 251(f)(2) and ARSD 20:10:32:39.

Pursuant to 47 U.S.C. § 251(f)(2) and SDCL 49-31-80, the Commission is required to render its decision in this matter within 180 days after the filing of the petition. The Commission has determined that it is in the public interest to grant a temporary suspension of LNP requirements to Petitioners until September 30, 2004, to enable the Commission to consider and decide the deferred issue of intramodal number portability and to provide adequate time for the writing of the numerous final decisions in these dockets. It is therefore

ORDERED, that Petitioners' obligations to implement local number portability is temporarily suspended, pursuant to 47 U.S.C. § 251(f)(2) and ARSD 20:10:32:39, until September 30, 2004, by which date the Commission will issue a final decision in these dockets.

Dated at Pierre, South Dakota, this 4th day of September, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: *Nelsine Kolbo*

Date: *9/2/04*

(OFFICIAL SEAL.)

BY ORDER OF THE COMMISSION:

*Robert K. Sahr*  
ROBERT K. SAHR, Chairman

*Gary Hanson*  
GARY HANSON, Commissioner

*James A. Burg*  
JAMES A. BURG, Commissioner

THE PUBLIC UTILITIES COMMISSION

RECEIVED

SEP 10 2004

OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF TC04-025  
KENNEBEC TELEPHONE COMPANY FOR  
SUSPENSION OR MODIFICATION OF 47 U.S.C.  
SECTION 251(B)(2) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED

IN THE MATTER OF THE PETITION OF SANTEL TC04-038  
COMMUNICATIONS COOPERATIVE, INC. FOR  
SUSPENSION OF INTERMODAL LOCAL NUMBER  
PORTABILITY OBLIGATIONS

IN THE MATTER OF THE PETITION OF SIOUX TC04-044  
VALLEY TELEPHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF 47 U.S.C. SECTION  
251(B)(2) OF THE COMMUNICATIONS ACT OF  
1934 AS AMENDED

IN THE MATTER OF THE PETITION OF GOLDEN TC04-045  
WEST TELECOMMUNICATIONS COOPERATIVE,  
INC., VIVIAN TELEPHONE COMPANY AND  
KADOKA TELEPHONE COMPANY FOR SUSPENSION  
OR MODIFICATION OF THE 47 U.S.C.  
SECTION 251(B)(2) OF THE COMMUNICATIONS  
ACT OF 1934 AS AMENDED

IN THE MATTER OF THE PETITION OF ARMOUR TC04-046  
INDEPENDENT TELEPHONE COMPANY,  
BRIDGEWATER-CANISTOTA INDEPENDENT  
TELEPHONE COMPANY AND UNION TELEPHONE  
COMPANY FOR SUSPENSION OR MODIFICATION  
OF 47 U.S.C. SECTION 251(B)(2) OF THE  
COMMUNICATIONS ACT OF 1934 AS AMENDED

IN THE MATTER OF THE PETITION OF TC04-047  
BROOKINGS MUNICIPAL UTILITIES D/B/A  
SWIFTEL COMMUNICATIONS FOR SUSPENSION  
OR MODIFICATION OF 47 U.S.C. SECTION  
251(B)(2) OF THE COMMUNICATIONS ACT  
OF 1934 AS AMENDED

ORIGINAL



1	IN THE MATTER OF THE PETITION OF	TC04-048
2	BERESFORD MUNICIPAL TELEPHONE COMPANY	
3	FOR SUSPENSION OR MODIFICATION OF	
4	47 U.S.C. SECTION 251(B)(2) OF THE	
5	COMMUNICATIONS ACT OF 1934 AS AMENDED	
6		
7	IN THE MATTER OF THE PETITION OF MCCOOK	TC04-049
8	COOPERATIVE TELEPHONE COMPANY FOR	
9	SUSPENSION OR MODIFICATION OF 47 U.S.C.	
10	SECTION 251(B)(2) OF THE COMMUNICATIONS	
11	ACT OF 1934 AS AMENDED	
12		
13	IN THE MATTER OF THE PETITION OF VALLEY	TC04-050
14	TELECOMMUNICATIONS COOPERATIVE	
15	ASSOCIATION, INC. FOR SUSPENSION OR	
16	MODIFICATION OF 47 U.S.C. SECTION	
17	251(B)(2) OF THE COMMUNICATIONS ACT OF	
18	1934 AS AMENDED	
19		
20	IN THE MATTER OF THE PETITION OF CITY	TC04-051
21	OF FAITH TELEPHONE COMPANY FOR	
22	SUSPENSION OR MODIFICATION OF 47 U.S.C.	
23	SECTION 251(B)(2) OF THE COMMUNICATIONS	
24	ACT OF 1934 AS AMENDED	
25		
26	IN THE MATTER OF THE PETITION OF	TC04-052
27	MIDSTATE COMMUNICATIONS, INC. FOR	
28	SUSPENSION OR MODIFICATION OF 47 U.S.C.	
29	SECTION 251(B)(2) OF THE COMMUNICATIONS	
30	ACT OF 1934 AS AMENDED	
31		
32	IN THE MATTER OF THE PETITION OF	TC04-053
33	WESTERN TELEPHONE COMPANY FOR	
34	SUSPENSION OR MODIFICATION OF 47 U.S.C.	
35	SECTION 251(B)(2) OF THE COMMUNICATIONS	
36	ACT OF 1934 AS AMENDED	
37		
38	IN THE MATTER OF THE PETITION OF	TC04-054
39	INTERSTATE TELECOMMUNICATIONS	
40	COOPERATIVE, INC. FOR SUSPENSION OR	
41	MODIFICATION OF 47 U.S.C. SECTION	
42	521(B)(2) OF THE COMMUNICATIONS ACT OF	
43	1934 AS AMENDED	
44		
45	IN THE MATTER OF THE PETITION OF	TC04-055
46	ALLIANCE COMMUNICATIONS COOPERATIVE,	
47	INC. AND SPLITROCK PROPERTIES, INC. FOR	
48	SUSPENSION OR MODIFICATION OF 47 U.S.C.	
49	SECTION 251(B)(2) OF THE COMMUNICATIONS	
50	ACT OF 1934 AS AMENDED	



HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: August 31, 2004  
1:30 P.M.  
Room 412, Capitol Building  
Pierre, South Dakota

PUC COMMISSION: Robert Sahr, Chairman  
Gary Hanson, Vice-Chairman  
Jim Burg, Commissioner

COMMISSION STAFF: John Smith  
Rolayne Ailts Wiest  
Gregory Rislov  
Pam Bonrud

REPORTED BY: Lori J. Grode, RPR/RMR

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Roberts County and RC, Sioux Valley,  
Stockholm-Strandburg, Tri-County, Valley,  
West River, and Western;

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8 Bridgewater-Canistota, Beresford, CRST,  
9 Faith, Golden West, Vivian and Kadoka,  
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11 Roberts County and RC, Sioux Valley,  
12 Stockholm-Strandburg, Tri-County, Valley,  
13 West River, Western, and Brookings;

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23 57385, appearing on behalf of Santel;

24 ALSO APPEARING:

25 MARY LOHNES, Midcontinent  
JIM ATKINS, Swiftel  
RON WILLIAMS, Western Wireless  
DOUG EIDAH, Vantage Point

P R O C E E D I N G S

CHAIRMAN SAHR: Good afternoon. This is the time and place for the closing oral arguments in the LNP dockets.

We're here in Room 412, in Pierre, at the State Capitol. It is approximately 1:30 p.m. on August 31st, 2004. With me here in Pierre is Commissioner Jim Burg, and joining us on the phone line is Vice Chairman Gary Hanson. And I am Chairman Bob Sahr of the South Dakota Public Utilities Commission.

The first thing I'll do is ask the people who are on the phone line to please state your name and who you are affiliated with.

MR. DICKENS: Chairman Sahr, this is Ben Dickens and Mary Sisak. We're appearing with Darla Rogers today, and we're also appearing separately for the City of Brookings.

CHAIRMAN SAHR: Thank you.

MR. LARSON: Chairman Sahr, this is Jeff Larson, appearing on behalf of Santel.

CHAIRMAN SAHR: Thank you. Is there anyone else other than Commissioner Hanson on the phone line?

MR. WILLIAMS: Chairman Sahr, this is Ron

1 Williams with Western Wireless.

2 CHAIRMAN SAHR: Okay.

3 MS. LOHNES: Chairman, this is Mary Lohnes.

4 MR. EIDAH: Doug Eidahl, Vantage Point.

5 CHAIRMAN SAHR: And was this Mary from  
6 Midcontinent?

7 MS. LOHNES: Yes.

8 CHAIRMAN SAHR: Thank you. This is Jim  
9 Atkins from the City of Brookings, Swiftel  
10 Communications.

11 CHAIRMAN SAHR: Is there anybody else?

12 All right. Let's -- we can stay on the  
13 record, but let's try to figure out what order  
14 we're going to go in. John has informed me,  
15 Darla, you're going to go first and then Ben?

16 MR. DICKENS: Yes, or Jeff Larson.

17 CHAIRMAN SAHR: Okay. Rich? Tal?

18 MR. WIECZOREK: Sure.

19 CHAIRMAN SAHR: Dave and then staff.

20 MS. WIEST: Sure.

21 CHAIRMAN SAHR: Does that work?

22 MS. WIEST: Works for me.

23 CHAIRMAN SAHR: Is there anyone else that I  
24 missed who's going to be making oral argument?  
25 If not, the floor is yours, Darla.

1 MS. ROGERS: Thank you very much. My name  
2 is Darla Pollman Rogers, and I represent all of  
3 the petitioners in this case, with the exception  
4 of Santel Communications, which is Docket TC  
5 04-038, and Brookings Municipal Utilities, doing  
6 business as Swiftel Communications, which is  
7 Docket TC 04-047.

8 Members of the Commission: In my opening  
9 statement, given what seems like light years ago  
10 now, I refer to this entire LNP suspension  
11 modification process as "our LNP journey." Here  
12 we are a few months later, the pleadings have all  
13 been filed, the discovery has been completed,  
14 there have been a -- there has been a long series  
15 of hearings conducted, exhibits and corrected  
16 exhibits have been introduced, and the issues  
17 have been thoroughly briefed by all of the  
18 parties and by staff.

19 So we come to the end of this phase of the  
20 journey. And on behalf of all of the petitioners  
21 that I represent, I want to thank you for your  
22 time and your attention throughout this process  
23 that was at times arduous. There is little more,  
24 in my opinion, to be said, so I'm going to keep  
25 my comments to you today very brief.

1           In preparation for these closing arguments  
2           today, I went back and reviewed my notes of my  
3           opening statement, as well as the notes of  
4           staff's opening statement. And at the outset of  
5           these dockets, we, as petitioners, asked you to  
6           do several things:

7           We, first of all, pointed out your  
8           jurisdiction and your authority and your  
9           responsibility to suspend and/or modify LNP  
10          obligations under 47 USC 251(f)(2) and also  
11          pursuant to SDCL 49-31-80. And your authority to  
12          do so has basically not been disputed throughout  
13          this process.

14          We also tried to point out for you, as did  
15          the commission staff in its opening statement,  
16          some of the key issues that we would request you  
17          to focus on. The first one was the costs of LNP.  
18          And we pointed out to you that we would  
19          establish, as petitioners, that there are  
20          significant adverse economic impact -- or this is  
21          a significant adverse economic impact on  
22          subscribers.

23          We would also show that provisioning of LNP  
24          would be unduly economically burdensome to the  
25          companies.



1           The second issue we asked you to focus on  
2           was the transport and routing issues associated  
3           with LNP.

4           The third thing we pointed out to you was  
5           unresolved issues at the federal level.

6           And, finally, we asked you to look at the  
7           public interest, including a cost benefit  
8           analysis.

9           I'm not going to replot that ground. And I  
10          trust that you have focused on all of those  
11          factors throughout the hearing. I would,  
12          however, like to direct your attention to the  
13          three points today. The first one is the  
14          transport routing issues associated with LNP.  
15          And I would like to bring these up again and  
16          review them because of their significance to our  
17          petitioners.

18          The petitioners have maintained throughout  
19          this process that they have no legal obligation  
20          to transport traffic to points beyond their  
21          service territories whether the traffic is  
22          associated with ported numbers or not.

23          Under the provisions of 47 USC Section  
24          251(c)(2)(b), incumbent LEC's are required to  
25          provide interconnection only at a "technically

1 feasible point within the carrier's network."

2 Staff apparently reached the same conclusion  
3 with regard to the responsibility for transport.  
4 Quoting from staff's brief, staff stated:  
5 Staff's position is that the Commission should  
6 find that an RLEC is not responsible for the cost  
7 of transporting LNP traffic outside of its  
8 exchange area and that a local exchange company  
9 shouldn't be required to transport local exchange  
10 calls beyond its local exchange area.

11 Petitioners concur with and support this  
12 aspect of staff's recommendation, and we would  
13 urge the Commission to modify petitioners' LNP  
14 obligations pursuant to Section 251 of the Act to  
15 clearly state that each petitioner is not  
16 required to transport calls beyond its local  
17 exchange area.

18 Having said that, however, I would point out  
19 that that does not resolve all of the transport  
20 and routing issues. Uncertainties still exist.

21 First of all, at the FCC level, the FCC has  
22 yet to address the transport and routing issues.  
23 What we have referred to as the Sprint petition  
24 is currently pending, and there are other appeals  
25 wherein the FCC may address these issues, but

1           that has not transpired to date.

2           There is Western Wireless' position. They  
3           have said that it's petitioners' responsibility  
4           for transport, and they proposed Qwest as a  
5           transiting possibility without further evidence  
6           of whether or not that is a viable option.

7           The staff said do not require direct  
8           connections or any specific routing methods. The  
9           RLEC and the requesting carrier can negotiate the  
10          method of transport. And, of course, the  
11          petitioners' position has been that direct  
12          connections are necessary either within each  
13          exchange or within each host and stand-alone  
14          switch exchange area.

15          So what is the answer? I'm not sure I can  
16          tell you the exact answer. But what I can  
17          suggest to you is that you follow the example of  
18          the Nebraska Commission in its recent ruling and  
19          conclude as the Nebraska Commission has that  
20          indirect connections are technically infeasible  
21          presently and that resulting transport costs  
22          "would indeed be a part of the costs associated  
23          with implementation of LNP and that such costs  
24          would either be an additional significant adverse  
25          economic impact on end users, or would be an

1 undue economic burden on the local exchange  
2 carriers." And that's from the Nebraska Order at  
3 pages seven and pages ten through eleven.

4 The second point I would like to make to you  
5 today is that we're at a different point in the  
6 LNP history, so to speak, than we were at the  
7 beginning of these proceedings. You, as a  
8 Commission, now have other input to consider than  
9 you had at the start of this process.

10 FCC Chairman Powell wrote a letter to the  
11 president of NARUC, dated June 18th of 2004. And  
12 in that letter he stated -- and I would also  
13 point out that letter is part of the record in  
14 this case -- "I urge state commissions to  
15 consider the burdens on small businesses in  
16 addressing those waiver requests and to grant the  
17 requested relief if the state commissions deem it  
18 appropriate."

19 In addition, there have been other decisions  
20 of the state commissions. We provided a summary  
21 of those decisions in our Reply Brief.  
22 Approximately 250 LNP suspension requests have  
23 been filed or submitted in 38 states on behalf of  
24 approximately 786 local exchange carriers, and  
25 this is as of June 2004.

1           The vast majority of states have granted  
2 relief of one form or another, either temporary  
3 or permanent suspension to rural LEC's. So I  
4 would submit to you that you are not plowing new  
5 ground here, so to speak. And I would also urge  
6 you as a Commission to look at what the majority  
7 of what other state commissions have done and  
8 grant the relief requested by the petitioners  
9 herein.

10           The third point that I would make to you  
11 concerns the public interest. Are the  
12 suspensions and modifications requested herein  
13 consistent with public interest, convenience, and  
14 necessity? And I would submit to you that the  
15 overwhelming evidence is that they are.

16           A determination of the public interest  
17 relating to the LNP suspension petitions involves  
18 a cost versus benefit analysis. The costs were  
19 thoroughly analyzed throughout the proceedings.  
20 Petitioners have clearly demonstrated the  
21 significant adverse impact on users and the undue  
22 economic burden on carriers. The staff  
23 apparently concurs that all petitioners have met  
24 one or both of these cost tests.

25           The Nebraska Commission recently stated that

1 an analysis of the benefits of such  
2 implementation turns on whether there is a demand  
3 for LNP among the telecommunications users served  
4 by petitioners.

5 The record clearly establishes that little  
6 or no demand exists. All but three of the  
7 managers who testified on behalf of the  
8 petitioners presented direct testimony that they  
9 have had no demand for LNP. Think about that.  
10 Not one request in their areas for LNP. This  
11 included some of the larger carriers as well,  
12 including Golden West, Alliance, and Venture.

13 Petitioners disagree with staff's conclusion  
14 that the public interest test is not met for all  
15 petitioners. There is no evidence of higher  
16 demand in the grouped three exchanges. Even  
17 assuming a 1.5 percent porting rate, which was  
18 estimated by staff and was concededly a guess,  
19 that is a very small percentage of customers  
20 sustaining a very costly luxury of LNP for only a  
21 few subscribers.

22 The per line impact on customers has been  
23 demonstrated to be significant for all South  
24 Dakota consumers regardless of whether their  
25 carrier is large or small even though even among

1 the larger companies there is no evidence of  
2 higher demand. And, in fact, the evidence  
3 establishes that some of the largest companies  
4 have the lowest densities, which even staff  
5 concedes density has an effect on demand.

6 The cost does not get any better for  
7 consumers of larger companies. As we pointed out  
8 in our brief, the bottom line is this: The  
9 benefit picture does not improve for customers of  
10 a large company. I would also point out to you,  
11 as was considered by the Nebraska Commission,  
12 that there was no evidence submitted that a  
13 suspension would adversely impact consumers  
14 because there hasn't been any demand.

15 How many more surcharges are we going to add  
16 to customers' bills for services they don't want  
17 and will never use? I would submit to you that  
18 any cost is too high for customers that -- for a  
19 service that customers do not want.

20 I ended my opening statement with a picture  
21 for you and that was a public interest scale.  
22 And I said it was like the Scales of Justice, or  
23 a teeter-totter, whichever you prefer to look at.  
24 Actually, the Nebraska Commission did essentially  
25 the same thing in its final analysis of the

1 public interest.

2 So if you picture our Scales of Justice --  
3 and remember we said that the public interest  
4 element or test involves weighing the cost versus  
5 benefit analysis. And on the cost side what do  
6 we have? We have the actual costs.  
7 Implementation of LNP and those costs, even if  
8 you set aside transport for a moment -- which, of  
9 course, you can't do -- are considerable.

10 Number two, we have the economic obstacles  
11 that still exist.

12 Number three, we have the unresolved issues,  
13 including porting interval.

14 And, number four, and that spills over into  
15 number three, is the transport routing issues  
16 that are unresolved yet.

17 All of those are on the cost side. Now,  
18 what's on the benefit side? Lack of demand.  
19 That's what the evidence showed. Clearly, then,  
20 the scale, the balance of the scale, tips in  
21 favor of granting the suspensions requested.

22 Based on the evidence and the record before  
23 this Commission, we urge you to find, as the  
24 Nebraska Commission did, that the petitioners  
25 have sustained their burden of proof pursuant to



1           47 USC Section 251(f)(2)(b) that suspension and  
2           modification of the requirements of local number  
3           portability and the November 10th order of the  
4           FCC is consistent with the public interest,  
5           convenience, and necessity.

6           Finally, we would add, as requested in our  
7           Reply Brief, that if any implementation is  
8           ordered at all, it shouldn't occur until May 24th  
9           of 2006 at the earliest so that at least  
10          18 months of experience can be gained before this  
11          matter is re-evaluated.

12          Thank you again for your attention.

13          CHAIRMAN SAHR: Thank you. Mr. Dickens.

14          MR. DICKENS: Thank you, Mr. Chairman. I'll  
15          be very, very brief.

16          We would concur in the remarks by  
17          Ms. Rogers. The only thing I would add is that I  
18          know your schedule here for Midco here today on  
19          intermodal LNP. We've covered that topic in our  
20          brief. We do not believe that intermodal LNP is  
21          justified from a cost benefit analysis. We  
22          discussed that, for instance, on page 12 of our  
23          Reply Brief. And we would rest on that brief,  
24          and that concludes my remarks.

25          CHAIRMAN SAHR: Thank you very much.

1 Mr. Larson.

2 MR. LARSON: Thank you. Also I am not going  
3 to add a great deal to what Darla has presented  
4 to the Commission.

5 My client's situation is obviously similar  
6 to everyone else's. I would like to point out  
7 just two very brief things: In the discussion  
8 about costs and the argument that intervenors  
9 have used showing substantially lesser costs in  
10 certain situations, I would like to point out  
11 that it has been the history of these petitioners  
12 and our desire at this time to always provide  
13 quality service.

14 And that I don't think we want to provide a  
15 situation or buy into a situation where we would  
16 be giving any kind of service unachieved, which  
17 suggests that the costs presented in evidence by  
18 the petitioners are the costs that need to be  
19 considered and why they therefore meet the  
20 statutory requirement.

21 And, lastly, that none of us -- I don't mean  
22 to be demeaning. I suggest this to myself and I  
23 advise clients, the court, or commission, we  
24 don't check our common sense at the door. There  
25 is no -- it's almost uncontroverted there is no

1 demand for this service. And I would suggest to  
2 you, as Darla alluded, that this is not going to  
3 change by next spring; and that therefore if  
4 anything would be granted, we would certainly ask  
5 that it be at least spring of 2006. And that's  
6 all I'd have. Thank you very much.

7 CHAIRMAN SAHR: Thank you very much.

8 Mr. Coit.

9 MR. COIT: Thank you. I would also like to  
10 thank you, the Commission, for all of the time  
11 spent during the hearings process. And I would  
12 also like to thank you for the opportunity for  
13 these arguments today.

14 I also concur in Ms. Rogers' comments. SDTA  
15 presented testimony through one witness in this  
16 case, Mr. Steven Watkins. And Mr. Watkins  
17 commented on the various standards and the  
18 evidence as weighed up against those standards  
19 for judging these LNP suspensions, but his  
20 primary emphasis was on the public interest  
21 analysis. And in argument today, I would just  
22 like to focus in on, I think, a couple of the  
23 more important considerations within that  
24 analysis.

25 In our initial brief before the Commission,

1 we had set forth, I think it's pages 41 through  
2 53, a list of the various reasons why we don't  
3 believe it is in the public -- or we do believe  
4 it is in the public interest to grant all of  
5 their requested suspensions. Staff is suggesting  
6 -- or is recommending that certain companies not  
7 receive a suspension.

8 We don't agree that the public interest  
9 factors or the public interest analysis is any  
10 different really in terms of the result, what the  
11 result should be. We believe that all of the  
12 companies, if you look at it, look at the  
13 standards that are there, and looking at the  
14 public interest in particular, deserve a  
15 suspension.

16 First -- and Ms. Rogers discussed this at  
17 length here, that the lack of demand --  
18 Mr. Watkins, in his testimony, discussed the lack  
19 of demand and explained that at least in his  
20 opinion, you know, the reasons that you don't  
21 have any real demand for this particular  
22 service -- and speaking specifically to  
23 intermodal portability -- is the fact that the  
24 services today, anyway, are not really viewed as  
25 substitutes, but are viewed as complimentary

1 services.

2 So you just don't have much consumer  
3 interest in taking the same telephone number and  
4 moving it to the completely different service.  
5 That's not to say that doesn't happen. But  
6 there's just not that many customers that are  
7 interested in doing that. And that's borne out  
8 with respect to, you know, the nationwide numbers  
9 that were presented in some of the testimony.

10 And then, in addition to that, the demand, I  
11 think you can assume, is pretty minimal, very  
12 minimal because of the poor wireless coverage in  
13 South Dakota.

14 There are probably other reasons why there  
15 isn't much demand, but it's very clear from the  
16 record in this case that today there really  
17 isn't. There's little, if any, demand. And  
18 that, to me, is the most significant thing that  
19 sticks out in the public interest analysis.

20 The other thing that is an issue or a factor  
21 that I think equally has to be considered for all  
22 of the companies are the unresolved issues at the  
23 federal level. Right now we have at the federal  
24 level a number -- I know of at least two  
25 proceedings that are pending that will impact

1           these LNP obligations and the cost of those  
2           obligations.

3           You've got the FCC further notice of  
4           proposed rule making. We don't exactly know what  
5           the timeline is on that, but we know that it's  
6           there. We know that there's a rush to try to  
7           resolve some of these issues. We've got the  
8           Sprint petition proceeding that is to address the  
9           transport obligation issues.

10          We also have a pending appeal in the U.S.  
11          Court of Appeals that was brought by USTA, NTCA,  
12          and some other national telephone organizations.  
13          And I, as of today, don't know exactly what the  
14          timeline is for -- none of us know exactly what  
15          the timeline is for the decision in that case,  
16          but that appeal is pending.

17          And to the extent that certain companies are  
18          not granted a suspension, effectively they're  
19          going to be stripped of those appellate rights.  
20          You're not going to give that -- you're not going  
21          to give them a chance to wait for that decision  
22          and see exactly, you know, what their obligations  
23          are. And, clearly, that case, as well as the FCC  
24          cases that are pending, will impact LNP costs.

25          Staff is recommending, and we agree, that

1 rural LEC's are not responsible to carry traffic  
2 outside of their service areas. We don't know  
3 today, though, what the FCC's decision is going  
4 to be on the transport. And, very clearly, those  
5 decisions could impact LNP costs.

6 If you look at the other state decisions,  
7 Western Wireless, in its brief, had referenced a  
8 decision in New York and a decision in Michigan.  
9 There are a lot of decisions out there. As  
10 Ms. Rogers pointed out, the majority of those  
11 decisions are in favor of granting suspensions  
12 or modifications for some period of time.

13 I think I quoted -- we quoted in the --  
14 mentioned in the Reply Brief that as of the end  
15 of June there were 18 states out of the 35 states  
16 that had suspensions pending or before them that  
17 18 states already have granted some relief to  
18 rural LEC's.

19 I would, in particular, like to refer the  
20 Commission to the decision of the Ohio  
21 Commission, the Nebraska Commission, and the  
22 Mississippi Commission, all of whom gave weight  
23 to the fact that there were issues unresolved at  
24 the federal level. Specifically noted, that  
25 those decisions will impact LNP costs, and for

1           that specific reason -- or along with other  
2           reasons decided that the suspensions should be  
3           granted that were requested, or at least some  
4           level of suspension should be granted.

5           I think the other thing to remember is that  
6           there is an LNP surcharge that has to be  
7           established. And to the extent that the costs  
8           aren't known at the time that that LNP surcharge  
9           has to be established, companies are in the  
10          position of having to change that down the road.  
11          And if they have to change that, they actually  
12          have to get a waiver of the FCC rules to change  
13          that surcharge.

14          And from the research that we've done, it  
15          doesn't appear in looking at past FCC decisions  
16          that that sort of a waiver is going to be very  
17          kindly at all. That being the case viewed, you  
18          know, it really puts the companies in the  
19          position of having to determine what their LNP  
20          costs are and put it in a charge before the  
21          decisions are made at the federal level that will  
22          definitely impact those costs.

23          The last thing that I would like to spend a  
24          little bit of time commenting on is the transport  
25          option issue.



1           We spent a lot of time at the hearing  
2           discussing various transport options.

3           In Western Wireless, throughout the hearing,  
4           tried to portray that transport issue as being a  
5           pretty simple one. And they suggested on  
6           numerous occasions during the hearing that their  
7           proposal would be more efficient and less  
8           expensive to implement than the direct connection  
9           proposals forwarded by petitioners.

10          These Western Wireless claims, in our view,  
11          only look at the transport issue from Western  
12          Wireless' perspective, and they really give  
13          absolutely no consideration to the actual  
14          financial impact on the rural LEC's.

15          As reflected in the testimony of Mr. Houdek,  
16          Mr. DeWitt, and others, Mr. Bullock, if rural  
17          carriers with their limited service areas are  
18          ultimately forced to bear the burden of  
19          transporting landline calls to ported wireless  
20          numbers, all the way to a serving LATA tandem,  
21          and are forced to exchange these calls with  
22          Western Wireless and all other wireless carriers  
23          as local calls, the impacts will be "huge" for  
24          all the petitioners.

25          We commented on this in our Reply Brief, and

1 I'm -- just to give you an idea, I'm guessing, of  
2 the impacts. If landline carriers must consider  
3 landline calls for a ported number served by a  
4 wireless carrier as local and are also required  
5 to take on the responsibility to transport that  
6 traffic to a location outside of their existing  
7 local calling areas or service areas, there are a  
8 number of financial impacts.

9 Not only will there be additional direct  
10 costs associated with LNP implementation, there  
11 will be impacts on other LEC revenues. If the  
12 traffic to ported numbers is considered local,  
13 the LEC minutes flowing through the separations  
14 process that is utilized to establish federal and  
15 state access rates will be affected.

16 There will be a resulting increase in local  
17 traffic, and this increase will translate into a  
18 greater shift of cost recovery to the intrastate  
19 jurisdiction. This, in turn, will require higher  
20 local exchange service rates and/or intrastate  
21 access rates.

22 In addition, if the traffic is considered  
23 local and not subject to access charges,  
24 customers will be encouraged to bypass to an even  
25 greater extent the current landline total

1 networks. Increased bypass will lead to fewer  
2 access minutes and higher intraaccess state  
3 charges. The business of landline toll carriers  
4 competing will also be impacted. If landline to  
5 landline calls moving from one landline local  
6 calling area to another landline calling area are  
7 considered toll, but landline to wireless calls  
8 are not, landline long distance companies are  
9 tremendously disadvantaged, and this would  
10 undoubtedly be a negative impact on landline  
11 carriers' toll revenues.

12 So when you look at the transport issue,  
13 there's much more to consider than just the cost  
14 of those facilities that are established between  
15 the ILEC's and the Qwest. There's much more to  
16 it than that. There are a lot of impacts  
17 associated with the transport option.

18 Lastly, I would just like to comment on the  
19 last item that we had referenced in talking about  
20 the public interest. And that is the fact that  
21 we really are dealing today with a situation  
22 where it is effectively one-way porting.

23 Looking at that from the ILEC perspective,  
24 we have nothing to gain from this from a  
25 competitive perspective. It certainly doesn't

1 create a level playing field given the different  
2 calling scopes that exist between wireless and  
3 wireline companies. And I think that is  
4 something that should be kept in mind in this  
5 process.

6 If the FCC would have done it right, it  
7 would have gone ahead and they would have  
8 addressed the local calling scope differences,  
9 the rate center issues, before they ever ordered  
10 intramodal LNP. We can all speculate as to why  
11 they did it. I'm not sure why they did it. It  
12 has created a mess throughout the entire  
13 industry, which is illustrated by the fact that  
14 we have 250 some suspensions that are pending.

15 If the FCC would have done it in an  
16 appropriate way and addressed the real regulatory  
17 problems that are presented before they ordered  
18 it, I don't think we would have all of this  
19 litigation. And I think just the number of  
20 suspensions that are out there give you a pretty  
21 good indication that there are a lot of problems  
22 that need to be resolved.

23 We believe that the Commission should give  
24 the FCC a chance to resolve those issues, to give  
25 the courts a chance to revolve those issues

1 before requiring ILEC's to implement LNP. Thank  
2 you.

3 CHAIRMAN SAHR: Thank you very much.  
4 Mr. Wieczorek.

5 MR. WIECZOREK: Thank you, Chairman Sahr.  
6 Thank you, Commissioners, for your patience  
7 through all this, the two-week hearing and now  
8 granting us this chance to come in and wrap this  
9 up with some oral arguments.

10 I'm not going to repeat everything that was  
11 in the briefs. I think the briefs are -- our  
12 brief outlined our position fairly well. But  
13 there are some highlights that I'd like to  
14 address and then like to address some things that  
15 were contained in the Reply Brief.

16 First of which is, you know, it's obvious  
17 that the petitioners don't want to provide LNP,  
18 period. They see it as allowing other companies  
19 to come in and get some of their customers.

20 But the statutory test is fairly clear. And  
21 there are words in that test that set out that  
22 have to have meaning when you look at this and  
23 the petitioners have to pay attention to. First  
24 of all of which is that to meet the first  
25 requirement they have to show that your action is

1           necessary, that's necessary to avoid a  
2           technically infeasible situation.

3           Now, at the time of the hearing all three  
4           petitioners' cost experts said, well, this is  
5           technically feasible. It's really a cost issue.  
6           We now hear it is technically infeasible. Now  
7           the argument seems to be it's technically  
8           infeasible because it becomes technically  
9           infeasible unless you require point of  
10          interconnect.

11          But that totally ignores what's happened in  
12          Minnesota that was talked about at the time of  
13          the hearing. The MIC petition did not -- follows  
14          the procedure for transport that was set up and  
15          recommended by Western Wireless in this  
16          situation. To now take the position that it  
17          works in Minnesota but technically it's  
18          infeasible here makes absolutely no sense. And,  
19          frankly, they didn't provide any testimony that  
20          makes that technically infeasible.

21          The cost issues: Let's take transport right  
22          out of the box. That's a huge cost issue. Now,  
23          one of the issues in our brief and one of the  
24          issues I have with the way this has been  
25          presented by petitioners is they've had -- their

1 obligation under the statute is to show you  
2 Commissioners why your action is necessary to  
3 avoid an unduly economic requirement that's  
4 unduly economically burdensome.

5 However, rather than out of the box when  
6 this obligation came on and when Western Wireless  
7 contacted every one of these petitioners and said  
8 we would like to start working on porting  
9 numbers. Do you have any questions? Contact us.  
10 They sent out their cost experts. Their cost  
11 experts did one analysis, and they restricted it  
12 to interconnection agreement routing  
13 arrangements.

14 There's no contact with Western Wireless.  
15 And this -- in their brief -- in their Reply  
16 Brief they take the position, well, you could  
17 change those interconnection agreements, but  
18 Western Wireless has never asked us to do that.

19 I say that that is a misrepresentation,  
20 clearly. Ron Williams sat here and said, look,  
21 we tried to put that language in those  
22 interconnection agreements to begin with. It was  
23 taken out, not by us, but by them. And he was  
24 clearly -- there was clearly testimony that every  
25 one of these petitioners received a notice from

1 Western Wireless seeking some kind of dialogue.

2 And now to come to this Commission and say  
3 they could have provided, but they haven't  
4 bothered to ask. And to put the burden back on  
5 us is inappropriate, and it's, like I said, a  
6 misrepresentation of the facts that has been in  
7 front of the Commission and the truth.

8 The obligation sits on the petitioners.  
9 Western Wireless has come to this table to try to  
10 make things work. Throughout these -- throughout  
11 these proceedings Western Wireless has stepped up  
12 to try to make this work. The proceeding --

13 Western Wireless told this Commission, to  
14 try to eliminate some of the uncertainty, that  
15 Western Wireless would pick up the transport  
16 issues and yet until the FCC decides that final.  
17 And yet transport continues to come up saying  
18 it's in these arguments saying it can't be done.

19 Yet Mr. Bullock, a cost expert here, in  
20 response to Vice Chair Hanson's question says,  
21 you know, if Western Wireless is going to pay the  
22 way -- I think his phrase was, if you're going to  
23 pay the freight, you get to pick the railroad,  
24 meaning that if Western Wireless is going to pick  
25 the freight, they can make -- they can have this



1 delivered over the Qwest lines, they can go these  
2 routes.

3 So to come in and try to jack up the  
4 transport costs to legitimize and make necessary  
5 this Commission's actions is inappropriate, and I  
6 believe the facts bear out that your actions are  
7 unnecessarily unduly economically burdensome.

8 Really the only thing that they can prove  
9 under the first element, or arguably prove, is  
10 there are significant adverse economic impacts.  
11 And as our brief pointed out, they haven't proven  
12 it. There has been no testimony, with the  
13 exception of Kennebec, as to what the customers  
14 are willing to pay for LNP.

15 It is interesting to note that in our brief  
16 we discuss the Kennebec survey wherein one out of  
17 five people in Kennebec saved up 50 cents a month  
18 to have this opportunity, and 12 percent of the  
19 customers in Kennebec that responded to a survey,  
20 a mailed survey to them that they turned around  
21 and responded to would be willing to pay a dollar  
22 to have this option.

23 No other petitioners provided this  
24 information. And they didn't respond to it in  
25 the Reply Brief. The reason they -- that the

1 petitioners don't respond to it in their Reply  
2 Brief is because that supports the demand for LNP  
3 and the desire of rural customers to have LNP.

4 I submit if one in five people in Kennebec  
5 are willing to pay 50 cents for at least one  
6 company here, or two companies, one under 50  
7 cents and one that hovers around 50 cents, one  
8 out of five is a significant portion of the  
9 people. To say that that now creates a  
10 significant adverse impact, economic impact on  
11 the individuals, the evidence does not exist. It  
12 isn't there. That's a very high demand for LNP.

13 And those areas that are even closer than  
14 Kennebec to the more urban areas of South Dakota  
15 outside of Sioux Falls, those areas with a higher  
16 demographic makeup are obviously and more mobile  
17 bedroom communities into Sioux Falls, I think the  
18 common sense -- as counsel for Santel said if you  
19 don't leave that at the door -- common sense  
20 tells you those people likely have a higher  
21 demand for LNP as they go about their business  
22 and live in one community, but work in another.

23 So as our brief clearly sets forth, we do  
24 not believe any of the petitioners have met their  
25 burden under the first part of the test. You

1           only go to the public interest if they've met one  
2           of those three factors under the first part of  
3           the test.

4           Public interest, they point back to  
5           Mr. Watkins. Mr. Watkins makes some very general  
6           statements. He doesn't like LNP. He doesn't  
7           like the way the FCC set it up. However, he  
8           doesn't look at any of the petitioners and say  
9           this petitioner has the following factors and  
10          that's why I don't believe it fits with their  
11          customer base.

12          He makes references -- and Mr. Coit repeated  
13          it -- that there's -- in some areas there's poor  
14          cellular service. And I believe the corporate  
15          representative from Valley talked about that.  
16          And that's one of the reasons staff's brief set  
17          forth that they should be one of the not  
18          immediate people to provide LNP.

19          However, most of the corporate  
20          representatives complain about cellular service,  
21          yet Mr. Watkins would have you believe if  
22          cellular is ubiquitous throughout the service  
23          area of one of these LEC's, the demand for LNP is  
24          equivalent to that of value. And his general  
25          testimony cannot stand for showing public

1 interest to grant LNP.

2 A couple issues on a staff's brief I'd like  
3 to address and that is some -- the first is out  
4 of their categories, why we disagree that LNP is  
5 necessary -- or suspension of LNP is necessary  
6 under the test provided under the statute.

7 If one were to accept the staff -- the way  
8 the staff has broken out the petitioners by  
9 category, two of the petitioners, I believe,  
10 would be -- should be moved out what they term  
11 the category two, which is an extension to May of  
12 next year and down into providing LNP  
13 immediately. Specifically, Sioux Valley, which  
14 has a low cost per line, in alliance with some of  
15 the other petitioners that staff feels should  
16 provide LNP immediately.

17 And staff's projections, which I can contend  
18 are low, of 84 ports a year, or seven ports a  
19 month. Sioux Valley's is located not far out of  
20 the Sioux Falls area and is probably an area that  
21 will see more active porting.

22 The other company that they have placed in  
23 the tier two that I believe should be moved down  
24 and providing immediately LNP based on their  
25 analysis is Santel. Santel's costs, again, are

1           within that range that the staff felt was  
2           acceptable and also their ports, though staff's  
3           are lower at 72.

4           One of the other factors out there that was  
5           testified to was affiliated or a subsidiary  
6           company of Santel is moving into as a competitive  
7           LEC into the Mitchell area so that would also  
8           provide them with additional expertise since in  
9           that competitive LEC area they're going to have  
10          to be LNP compliant.

11          One of the issues of the Reply Brief I have  
12          an issue with the way they try to interpret the  
13          staff's brief and there's -- it was alluded to in  
14          arguments by petitioners' counsel, and that is in  
15          their brief they have taken the position that  
16          staff's brief means for anybody who gets a  
17          suspension to May of 2005 or 2006, that they  
18          don't have to start implementing until that time  
19          period comes.

20          I don't read staff's brief that way. I read  
21          staff's brief -- and I'll let staff speak to it.  
22          But if staff's brief's intent was that would they  
23          have an extension to 2000 -- May of 2005 and only  
24          then do they have to start the exercising --  
25          implementing, I would say that that would be an

1 inappropriate additional extension.

2 The petitioners -- even though petitioners  
3 who receive an extension, should the Commission  
4 grant it, can work on the preliminary work,  
5 provide LNP, and it should be a date certain for  
6 it to be LNP compliant. It makes no sense to set  
7 a date and then say, okay, now you have to start  
8 working on implementing and leave the date that  
9 they actually have to become compliant wide open  
10 to them saying, we're just starting on it, we're  
11 going to start our training program now, we're  
12 going to go through all these things, we're going  
13 to start talking to the cell companies. So I  
14 think a date certain to be LNP compliant is  
15 necessary.

16 The Reply Brief of petitioners talks about  
17 modifying the staff's requirement in dealing with  
18 transport to require point of interconnection, or  
19 POI's, and successfully negotiate transport. Yet  
20 their brief says we're not asking for an  
21 interconnection agreement, but we're asking for  
22 them to successfully negotiate transport.

23 I believe this is a red herring where they  
24 can just delay implementation of LNP. I believe  
25 for those companies that this Commission order --

1 and, again, Western Wireless would say except for  
2 the five that we've stipulated to should get to  
3 March 31st of next year -- should be all of them,  
4 that there shouldn't be a requirement to reach  
5 some kind of contractual agreement for transport.  
6 We, as Western Wireless, will be motivated to  
7 provide transportation in the most cost-effective  
8 manner possible.

9 We should not be restricted to try to come  
10 up with something short of an interconnection  
11 agreement, but come up with some contractual  
12 agreement to arrange for transport.

13 The other -- one of the other troubling  
14 aspects I have is how the petitioners have  
15 approached this. They group all petitioners  
16 together and they talk about needing points of  
17 interconnect and how this can't be done. Yet  
18 they make no distinctions for those companies  
19 that Western Wireless already has point of  
20 interconnect with.

21 Western Wireless already has point of  
22 interconnection with Golden West, Vivian,  
23 Venture, West River and Interstate. Yet  
24 petitioners would have you accept that that makes  
25 no difference at this point. They just need to

1           be lumped in and receive the same extension.

2           It's -- their argument is duplicitous in  
3           that they try to group all these petitioners  
4           together saying that points of interconnect are  
5           needed and then ignore the existing points of  
6           interconnection.

7           Finally, I would ask the Commission look  
8           behind the actions -- or look at the actions of  
9           the petitioners. There is a generally-accepted  
10          legal analysis which is sometimes called the  
11          clean hands doctrine. And that generally means  
12          that if you're going to ask for exceptions, if  
13          you're going to ask to fit within a rule, if  
14          you're going to ask for extensions, that you come  
15          to the tribunal or commission that you're  
16          requesting that to with clean hands to say we  
17          have attempted to resolve this in earnest. We  
18          cannot resolve this. There are things that we  
19          cannot resolve. Please give us this extension.  
20          Why we are working on the solution.

21          Commissioners, I submit that with the  
22          exception of James Valley and Cheyenne River  
23          Sioux Tribe, none of the petitioners come to you  
24          with clean hands. And they shouldn't be rewarded  
25          for attempting to make you act by increasing



1           their costs and by not attempting to resolve  
2           these issues either before they came to this  
3           Commission or during the pendency of this action.

4           There was -- there is an attack on Western  
5           Wireless' position when we say these people  
6           should -- these petitioners should implement LNP  
7           within 60 days. James Valley came to you and  
8           said they could do it within ninety. I will  
9           submit that James Valley had already had their  
10          software for LNP activated.

11          However, the testimony is, though, all the  
12          Nortel switches that come with that software only  
13          needs to be activated. James Valley hit the  
14          ground running and said we can do this in  
15          90 days. To award more than 90 days -- and even  
16          to award 90 days awards the remaining petitioners  
17          for coming to this Commission without those clean  
18          hands. Thank you.

19          CHAIRMAN SAHR: Thank you. Mr. Gerdes.

20          MR. GERDES: Mr. Chairman, members of the  
21          Commission: I'll be brief. Midcontinent has  
22          been something like a mouse in the corner in this  
23          proceeding. I found it interesting that my good  
24          friend, Mr. Dickens, pointed out their arguments  
25          in their brief -- as nearly as I can tell, he

1 pointed out page 12, and as nearly as I can tell,  
2 that's the only page in a 37-page brief that  
3 Midcontinent was mentioned, which I would submit  
4 to you is about consistent or equal to the amount  
5 of attention that the petitioners have paid to  
6 the subject of intramodal LNP.

7 I calculate one page out of a 37-page brief  
8 to be about 2.6 percent. And I would suggest  
9 that that was about the amount of time that the  
10 petitioners paid to intramodal LNP in this  
11 proceeding, which I think proves our point.

12 And our point is that the law as passed in  
13 1996 requires local number portability. The '96  
14 Act also requires that there be competition in  
15 the local loop. There really is very little  
16 question that local number portability is  
17 necessary to inject competition into the local  
18 loop.

19 Given the minimal additional cost that is  
20 associated with intramodal LNP, it is our  
21 position that the petitioners have not sustained  
22 their burden of proof.

23 I'd like to also just give you a short  
24 analysis of the way I see the law on this. The  
25 petitioners have the burden of proof. We all

1 agree to that. And I think most of the briefs  
2 have covered the actual legal principle itself.

3 And so I would suggest to you that what  
4 251(f)(2) says as to suspensions or  
5 modifications, that in order to override what is  
6 the statutory public interest, as embraced by the  
7 '96 Act, the petitioners have the burden of, in  
8 effect, turning the public interest around  
9 180 degrees.

10 In other words, turning public interest onto  
11 its ear. Because, remember, the overarching  
12 reason for passing the '96 Act was to inject  
13 competition into the local loop. That was the  
14 reason. Competition is the alternative for  
15 regulation. That was why the '96 Act was passed.

16 So if you look at the structure of  
17 251(f)(2), it says that in order for the  
18 petitioners to receive suspensions or  
19 modifications, they must show that there is no --  
20 in order to receive the suspensions and  
21 modifications, they must show that it is  
22 necessary to avoid a significant adverse economic  
23 impact on customers, they must show that it is  
24 necessary to avoid an unduly economically  
25 burdensome requirement, or to avoid imposing a

1           technically infeasible requirement.

2           And coupled with this, there must also be  
3           finding that these suspensions and modifications  
4           are consistent with the public interest.

5           So what has to be done is they have to go  
6           through -- they have to turn the ladder  
7           upside-down in order to get to the point they  
8           want to get to, and that's a big burden of proof.

9           Now, I'm not going to comment on the  
10          wireline to wireless LNP. But I would submit to  
11          you that if you look at the evidence in this  
12          proceeding, there's absolutely no question that  
13          they have not proven that the mandate of the '96  
14          Act should be set aside.

15          Let's not forget the FCC has had ample  
16          opportunity to modify the requirements of the  
17          Act, and they simply haven't done it. They have  
18          done it with respect to wireless LNP, but not  
19          local number portability, intramodal local number  
20          portability.

21          So we would submit that clearly there's no  
22          reason to delay and that local number portability  
23          should be ordered in the intramodal situation.

24          One last comment: The two things that the  
25          petitioners argue about the most, the lack of a

1 point of interconnection in the rate center and  
2 the cost of transport, are simply not present in  
3 wireline to wireline LNP.

4 Thank you very much for indulging the  
5 parties to this case in a very interesting  
6 two-week hearing and in the briefing process. As  
7 always, these proceedings are educational for all  
8 of us. Thank you.

9 CHAIRMAN SAHR: Thank you. Staff.

10 MS. WIEST: In staff's brief what we tried  
11 to do was evaluate each company and try to come  
12 up with what in staff's opinion was a reasonable  
13 recommendation.

14 And I think with respect to that first  
15 group, Kennebec, Faith, Tri-County,  
16 Stockholm-Strandburg and Western, I really don't  
17 think there's too much of an argument as to  
18 whether those companies should be granted some  
19 sort of a suspension. There was a question of  
20 how long it is.

21 Staff has, of course, proposed a two-year  
22 suspension due to those significant per line  
23 costs in those cases. We believe even with an  
24 FCC decision deciding some of the issues, that  
25 the significant adverse impact standards could

1 still be met.

2 Going to our second group of companies from  
3 for which staff recommends a one-year suspension,  
4 these do have some floor costs. In the first  
5 group we believe, in all likelihood, they will  
6 have a higher number of ports; and we believe  
7 they would benefit from a one-year suspension.  
8 Again, hopefully the FCC will inject some  
9 certainty into the proceedings.

10 Also some of the companies have some  
11 individual issues. For example, Armour,  
12 Bridgewater, Union has a mitel switch that will  
13 most likely need to be replaced at some point in  
14 the next couple years or the next -- or at least  
15 they have to make a decision. And Valley  
16 testified it only had 25 percent wireless  
17 coverage.

18 With respect to the third set of companies,  
19 I guess staff believes that at some point when  
20 you do have the cost versus demand balancing  
21 test, there is a point at which it can be in the  
22 public interest to implement LNP for these  
23 companies.

24 For example, when you have Golden, Qwest,  
25 Vivian, Kadoka, you have costs down to around 30

1 cents. And for ITC it costs around 55 cents  
2 higher access line numbers. Plus, in that case  
3 you have Midcontinent's entry into parts of ITC  
4 service area which certainly increased the  
5 porting demand.

6 Staff would be -- will admit that the line  
7 between the second and the third group is not  
8 nearly as clear-cut as the line between the first  
9 and the second group. And I think that ends up  
10 being a judgment call for the Commissioners to  
11 make if they choose to follow this type of  
12 situation.

13 Going on to the one issue about technically  
14 infeasible, I do not -- I still do not think that  
15 any of the companies can qualify under the  
16 technically infeasible standard. Based on the  
17 evidence, including evidence from the  
18 petitioners, I think it clearly showed that it is  
19 technically feasible to implement LNP.

20 And that brings me to my next point is how  
21 should it be implemented. As we state in our  
22 brief, we don't think the RLEC's are responsible  
23 for the costs of transporting LNP traffic outside  
24 of their exchange.

25 But, on the other hand, we don't think that

1 the Commission should go and mandate how LNP  
2 traffic should be transported in each case. I  
3 think you just to have look at James Valley and  
4 Cheyenne River to see that if you look at a  
5 company-by-company basis. And it depends. Is  
6 there direct connection in there? If there is  
7 not, I think the companies are certainly in the  
8 best position to figure out which is the most  
9 efficient and which is the most reliable method  
10 for transport.

11 Also, we did note in our brief if the  
12 Commission does grant suspensions for some of or  
13 all of the companies, we think the sub companies  
14 should be required to keep track of requests for  
15 LNP. We would encourage wireless companies to  
16 keep track.

17 And I think for some of the companies that  
18 have to do generic upgrades or switch  
19 replacements, the Commission would need more  
20 information as to those timelines that they would  
21 request additional suspensions.

22 But in the end, it's staff's opinion the  
23 demand for LNP will increase over time. And  
24 that's certainly a factor to be considered in the  
25 public interest balancing test.



1           And just going to the question of whether  
2           there was shown little demand for LNP, I think  
3           based on the evidence, it's more accurate to say  
4           that the demand is uncertain. I mean even  
5           Mr. Bullock had put in numbers that range from  
6           like six-tenths to 3 percent demand.

7           And Mr. Wieczorek also mentioned the  
8           Kennebec survey. But I do think that there will  
9           be some demand for LNP, but at this point I would  
10          agree that the demand is uncertain.

11          And with respect to Mr. Wieczorek's comment  
12          about what our suspensions or timelines mean,  
13          when we talk about a one-year suspension, we do  
14          mean that by one year that the Commission -- that  
15          they would have to have it implemented by then  
16          unless they would ask for further suspension  
17          before that time. Thank you.

18          CHAIRMAN SAHR: Thank you. At this point in  
19          time I will move that the Commission go into  
20          executive session to discuss the case.

21          COMMISSIONER BURG: Can we ask questions?  
22          Is that appropriate, I guess, is what I'm asking?

23          CHAIRMAN SAHR: Let's go off the record for  
24          a second.

25          (A DISCUSSION WAS HELD OFF THE RECORD.)

1                   COMMISSIONER BURG: I guess I have basically  
2 just one anyway.

3                   CHAIRMAN SAHR: First of all, let's go back  
4 on the record. At this point in time we'll see  
5 if there are questions from the Commissioners or  
6 the advisors for the Commissioners.

7                   Commissioner Burg.

8                   COMMISSIONER BURG: The question I have --  
9 and I'll ask it first of Ms. Rogers and then of  
10 Mr. Wieczorek. The fact that transport -- if  
11 transport were transferred to the wireless  
12 requesting company to provide, does that make the  
13 cost of transport in any way disappear?

14                  MS. ROGERS: No, sir.

15                  COMMISSIONER BURG: Would it just shift it  
16 to a different group of consumers? Would that be  
17 accurate?

18                  MS. ROGERS: I believe that what we've tried  
19 to portray is that while you can consider the  
20 actual costs of the implementation of LNP with  
21 switch upgrades and all of those types of  
22 elements, and you can consider transport, you  
23 can't ignore transport. The transport costs are  
24 not going to go away.

25                  So one way or another they're going to have

1 to be borne by someone. So I think your  
2 statement is accurate.

3 COMMISSIONER BURG: What would be your  
4 analysis of the impact on LNP requests if that  
5 transport costs was shifted to the requesting  
6 party?

7 MS. ROGERS: At this point, and in  
8 accordance with the evidence as it came in in  
9 this hearing, I'm not sure that it would have --  
10 or make a great difference. I mean we are just  
11 not seeing a demand or request for LNP.

12 I mean we're saying that in our -- in the  
13 exchanges that are represented here, they have  
14 not had customers that have come in and said "we  
15 want to port our numbers to a wireless carrier."  
16 And they have not been privy to these proceedings  
17 to know the costs involved. There is just not a  
18 demand for it.

19 COMMISSIONER BURG: I'll give you a chance  
20 to answer the same questions, Mr. Wieczorek.  
21 Does the cost merely go to a different party, the  
22 transport costs, or do some of them actually just  
23 go away in any way?

24 MR. WIECZOREK: What Western Wireless has  
25 proposed is pending the final decision of the

1 FCC, we would pay the transport costs. So to the  
2 extent, sure, there's still costs there, but  
3 they're not borne by the petitioners or the  
4 petitioners' customers.

5 COMMISSIONER BURG: How would you recover  
6 that transport cost?

7 MR. WIECZOREK: It would be part of the  
8 regular bill.

9 COMMISSIONER BURG: Would your marketing of  
10 LNP change if you had that additional cost?

11 MR. WIECZOREK: I'm not in the marketing  
12 Department of Western Wireless. I would -- so to  
13 the extent I believe it would not because they  
14 would just pick that cost up and it would be part  
15 of their internal cost structure.

16 To the extent that Western Wireless has  
17 available points of interconnect already, they  
18 would use those. Otherwise, they would use the  
19 existing infrastructure either through SDTA or  
20 Qwest, as discussed by Mr. Williams. And those  
21 costs would just be part of the costs that they  
22 would pay if it's a cellular customer calling in  
23 that area.

24 COMMISSIONER BURG: Because my concern is  
25 that we have right now, of course, there's no

1 reason not to promote and advertise and try to  
2 get LNP customers because there's actually no  
3 cost to the requesting wireless party.

4 And my concern is that where we already  
5 have, from the evidence in the record at least,  
6 very low take on local number portability, if  
7 there were additional costs to be added to the  
8 person asking to port their number through their  
9 wireless company, that that desirability, both on  
10 the part of the wireless company and the consumer  
11 to pay the extra costs for the purpose of LNP  
12 might even reduce that more. That's kind of  
13 where I'm coming from.

14 MR. WIECZOREK: I do not envision that  
15 Western -- it would cause Western Wireless to  
16 stop any marketing. They would plan on doing an  
17 LNP if the Commission would make the petitioners  
18 become LNP. And I do not envision -- and, of  
19 course, I'm the attorney, not the engineer, but I  
20 do not envision that it would increase the  
21 baseline costs of what Western Wireless would  
22 charge its customer base.

23 CHAIRMAN SAHR: Off the record.

24 (A DISCUSSION WAS HELD OFF THE RECORD.).

25 CHAIRMAN SAHR: I do have a couple questions

1           since we're taking the time for that.

2           One of the things that came up is the --  
3           from staff is the request that if waivers are  
4           granted, then the LNP request be tracked.  
5           Ms. Rogers, do you know if that's something  
6           that's acceptable to your clients?

7           MS. ROGERS: To my knowledge, yes, that  
8           would be acceptable to my clients.

9           CHAIRMAN SAHR: And if a waiver were to be  
10          granted, one of the issues would be is this  
11          something that would be open-ended, or would  
12          there be a date certain? And I think implicit  
13          with that date certain would be the thought that  
14          obviously the Act does have a preference for LNP  
15          with state oversight.

16          What would you say to the argument of  
17          setting dates as opposed to being open-ended when  
18          it comes to the issue of making sure that all  
19          involved are moving towards taking appropriate  
20          steps to put in new technology that it makes it  
21          easier to do LNP and more cost effective and that  
22          negotiations continue on in good faith going  
23          forward?

24          How would you deal with the issue of whether  
25          or not to leave this open-ended or set a date

1           certain? Because I think the idea of the date  
2           certain is that it will give impetus to people to  
3           try to move towards LNP even if it currently is  
4           something that they feel is costly.

5           MS. ROGERS: I believe in the materials that  
6           we've presented to the Commission and also in the  
7           -- in some of the other decisions that we have  
8           referenced and, in particular, Nebraska, Nebraska  
9           did set basically the date of January of 2006,  
10          which is like an 18-month period, to kind of see  
11          what the resolution is going to be of some of the  
12          unresolved issues, whether our costs are going to  
13          be greater, because they could be depending on  
14          what happens at the FCC level, and also where the  
15          demand goes as time progresses.

16          And so that's why in our Reply Brief we had  
17          also suggested instead of, you know, instead of  
18          January 1st of 2006, instead, you know, January  
19          -- June 26th of 2006.

20          I'm not -- I think that it depends on the  
21          circumstances of some of the companies. And I  
22          think that we would not have -- we would not be  
23          adverse to a date certain such as Nebraska has  
24          implemented as long as there is still enough  
25          flexibility so that if there are circumstances

1 within an individual company that would put them  
2 in a position where they would need to apply for  
3 an additional extension or an extension of that  
4 time, that there would be enough flexibility and  
5 ability for that particular company or whichever  
6 ones it might be, to come back before this  
7 Commission and request an extension of that date.

8 CHAIRMAN SAHR: And then a question that  
9 relates to the ITC and Midco situation -- and  
10 this would be for either you or Mr. Coit --  
11 Midco has made the argument that when we look at  
12 intramodal LNP, that we have more certainty and  
13 that -- although I don't know if Mr. Gerdes made  
14 the argument here, I certainly think there might  
15 be some feelings that perhaps ITC opened the door  
16 for some competition by offering cable services  
17 -- there have been some questions about who would  
18 bear the cost of LNP in those situations.

19 I think, Mr. Coit, you or maybe it was  
20 Ms. Rogers in the brief had made the point that  
21 you felt it would be the Webster and Waubay  
22 consumers that would bear that. And I guess I  
23 would imagine Midcontinent's response would be,  
24 well, you opened the door.

25 How would you have the Commission deal with



1           that situation, which, I mean, I think is  
2           significantly different than the -- than the  
3           intermodal LNP.

4           MS. ROGERS: If I could, Commission, I would  
5           like to defer that question to Ben Dickens. I  
6           think he was a little bit more involved in that  
7           other docket than I was. So I would like to  
8           defer that to him if you would allow me to do so.

9           CHAIRMAN SAHR: That would be fine.  
10          Mr. Dickens.

11          MR. DICKENS: Well, Ms. Sisak is with me,  
12          and she's going to speak to that.

13          CHAIRMAN SAHR: You guys are running out of  
14          attorneys.

15          MR. DICKENS: I won't defer to anybody else.

16          MS. SISAK: I'm prepared to answer. I think  
17          part of the problem with the Midcontinent  
18          example, you are correct that the unresolved  
19          issues are not -- maybe not of concern, or maybe  
20          not as great a concern for intramodal LNP. For  
21          example, transport shouldn't be a significant  
22          issue and, obviously, wireless to wireline  
23          porting is not an issue.

24          The problem is the way Midcontinent has  
25          requested LNP, which is on an exchange-by-

1 exchange basis. Now, for ITC it's two exchanges.  
2 And so when you look at what ITC would have to do  
3 to become LNP capable for those two exchanges,  
4 they would, in essence, have to incur almost all  
5 of the costs of LNP other than the transport  
6 costs that are in their cost exhibit. But they'd  
7 only be able to spread that over the few  
8 customers in those two exchanges.

9 And so on the one hand I do not disagree  
10 that some of the issues on intramodal porting are  
11 fewer, but on the other hand the way Midcontinent  
12 has requested LNP makes the costs really  
13 significant.

14 CHAIRMAN SAHR: Thank you. And I'll ask the  
15 follow-up question you're probably already  
16 anticipating. If that is the situation, didn't  
17 ITC open up the door for that result when it went  
18 into the cable business?

19 MS. SISAK: Well, I'm going to have to say I  
20 don't know if ITC only offers cable service in a  
21 couple of exchanges. So I guess I can't fully  
22 answer the question. I don't think they've  
23 opened the door.

24 I think the situation may be quite different  
25 if Midcontinent, for example, came in and

1 requested LNP for all ITC exchanges. The cost  
2 analysis would be different.

3 MS. SMITH: Ms. Sisak, this is John Smith.  
4 When you say the costs in those two exchanges can  
5 only be spread over those two exchanges, do you  
6 mean that any surcharge the company imposed could  
7 only be imposed in those two exchanges? Or are  
8 you just stating that costs that have a  
9 company-wide level of cost incurrences are only  
10 going to benefit those two exchanges, but those  
11 surcharges would be borne by all of the customers  
12 in the company?

13 MS. SISAK: The answer is it's our  
14 understanding of the FCC rules that the federal  
15 surcharge could only be applied to the customers  
16 in those two exchanges. And the second part of  
17 your question, though, is also true. Only the  
18 customers in those two exchanges could benefit  
19 from LNP. That's all of the other ITC customers  
20 for LNP would be inequitable from that standpoint  
21 as well.

22 COMMISSIONER BURG: Can I ask a follow-up  
23 question? The question I'd have to Ms. Sisak  
24 would even all the people in those exchanges be  
25 able to benefit, or are they only going to offer

1           it into the urban area where they have cable, or  
2           do they offer cable in the entire exchange?

3           I mean we even narrow it down to even fewer  
4           people because we're asking all the people in  
5           those exchanges to pay for services that can only  
6           benefit that metropolitan area, I'm guessing.

7           MR. SMITH: They're only certified in the  
8           towns.

9           COMMISSIONER BURG: Yeah. So then even if  
10          we tie it to those two exchanges, we're having a  
11          lot of people pay for it that aren't -- it isn't  
12          even available to, is the only challenge that I  
13          see.

14          CHAIRMAN SAHR: Although the provider that  
15          made the conscious decision to open themselves up  
16          to this form of competition could also bear the  
17          cost and they don't have to pass on to the  
18          consumer. And it's a little bit different than  
19          the people who are operating their businesses and  
20          have somebody else come into the market without  
21          the converse of that happening.

22          I would give Mr. Gerdes a chance to add  
23          anything he wants to.

24          MR. GERDES: First thing I'd observe,  
25          Commissioners, is we're getting pretty far

1 outside the evidentiary record of the proceeding.  
2 And so I hesitate to go where I need to go to  
3 answer one question.

4 Our evidence is that ITC is building out  
5 their cable and it's not in all of the exchanges  
6 at this point. They're in the process of  
7 building it out. That's what we understand from  
8 their web site.

9 As far as the rest of it is concerned, our  
10 point is as stated, and that is that this is a  
11 competitive entry. I mean, I don't --  
12 Midcontinent has to come in -- has to compete.  
13 And if ITC is going to go into Midcontinent's  
14 business, then Midcontinent has the ability to go  
15 into ITC's business, we would submit, so we can  
16 offer the same packages. I mean, it's a  
17 competitive situation.

18 As far as spreading the costs are concerned,  
19 I'd agree with what Chairman Sahr suggested would  
20 be one of our arguments and that is, well, they  
21 should have thought of that before they went into  
22 the business.

23 But the other part of it is regardless of  
24 what the FCC requirements are, if in fact, the  
25 cable business gets spread out all through the

1 ITC exchanges, eventually then you will end up  
2 having those costs all spread through the ITC  
3 exchanges. So it's a gradual thing rather than  
4 an instantaneous thing.

5 But, again, it's simply a matter of leveling  
6 the playing field in a competitive situation.  
7 And it gets a little bit far away from the  
8 philosophical aspect of local number portability,  
9 quite frankly, because, quite frankly, again, we  
10 would submit that there is no comparison between  
11 intramodal and intermodal LNP.

12 And that if you look at the law on  
13 intramodal LNP, there is -- there isn't any  
14 qualification to the obligation of a carrier to  
15 provide it as in the law. There's none. And so  
16 they have to. I mean, that's the bottom line.  
17 Now, and I guess that's the end of what I have to  
18 say.

19 CHAIRMAN SAHR: Well, and there certainly is  
20 a case that could be made saying when you're  
21 dealing with intramodal LNP, that there's much --  
22 well, there's -- there may more likely be a cost  
23 benefit in lower rates to consumers when you're  
24 dealing with services that are a direct  
25 substitute for one another as opposed to -- we

1 don't need to re-argue this whether or not you  
2 consider cellular service a substitute or  
3 compliment to wireline. I think you more than  
4 likely in those exchanges, if, at least in  
5 theory, it should work that you would get lower  
6 rates, so an additional cost might be made up for  
7 in the competition between the two parties all  
8 offering substitute services.

9 MR. GERDES: Because you are doing, in fact,  
10 what the '96 Act contemplates and that is putting  
11 true competition into the loop. I mean that's  
12 what that does. So, theoretically, it will keep  
13 prices as low as they can go.

14 MR. SMITH: Can I ask a follow-up for maybe  
15 Sisak and Dave? Is under the cable exemption,  
16 you know, when you give up your exemption when  
17 you get into cable business, does the Commission  
18 yet retain after that its authority under  
19 251(F)(2) to suspend? Is that still in existence  
20 after that?

21 MS. SISAK: Excuse me?

22 MR. SMITH: Do we still even have the  
23 ability to suspend once they've lost their rural  
24 exemption through the cable -- entering the cable  
25 business?

1 MS. SISAK: Yes, you do. Two different  
2 sections and two different exemptions.

3 MR. GERDES: I think that's right.

4 MS. SISAK: You specifically retain that  
5 authority. And I would further point out that  
6 although this might seem a little bit unfair to  
7 the cable competitors and even the CLEC  
8 competitors, the reality is Congress only thought  
9 to give some form of protection to ILEC's when it  
10 implemented 251.

11 MR. SMITH: Follow-up question maybe for  
12 Mr. Wieczorek on that. Let me ask you this with  
13 ITC then: If we were to not grant the suspension  
14 because of the issue with respect to the  
15 intramodal porting, effectively, is there any --  
16 what are the additional cost considerations,  
17 then, with respect to going to wireless?

18 MR. WIECZOREK: The only additional cost  
19 considerations that I would see would be the need  
20 to activate LNP for those switches that were not  
21 part of the exchange that they already have with  
22 Midco. They do have some of their switches --  
23 already have the software activated, but they do  
24 have some switches, and I'm not sure the switches  
25 they would have. That would be in Midco's area.



1 But, I mean, that's what I envision being an  
2 additional cost.

3 MR. SMITH: I mean there would be additional  
4 cost. It would not be de minimis.

5 MR. WIECZOREK: Well, I would guess I would  
6 argue what the definition of de minimis might be.  
7 But there would be additional cost to become LNP  
8 compliant beyond the Midco because I think it's a  
9 fair statement that they have switches outside of  
10 Midco that aren't LNP compliant yet.

11 MR. COIT: If I could comment on that  
12 briefly. I agree there would be additional  
13 costs. Obviously, you have the transport issue  
14 that is involved with the intermodal that you  
15 don't have, as we all know; and that can generate  
16 additional cost depending exactly how that is  
17 ultimately distributed in terms of the burden.

18 The other thing that I think to keep in mind  
19 with respect to intermodal portability is not  
20 just the direct cost of implementing the LNP. As  
21 I had mentioned earlier, there are significant  
22 other financial impacts associated with  
23 intermodal LNP as a result of the difference  
24 between the calling scopes between wireless and  
25 wireline.

1           So I would just encourage the -- or urge the  
2 Commission to not -- when you're looking at  
3 intramodal LNP, just don't think about the direct  
4 cost of providing the LNP service. There are  
5 other financial impacts that I think the LEC is  
6 going to experience as a result.

7           MR. SMITH: I just have one last thing, Mr.  
8 Wieczorek. You mentioned some of the exchanges  
9 on this list that already had direct connections,  
10 and I didn't catch all those companies as you  
11 were breezing through that.

12           MR. WIECZOREK: We have existing POI's with  
13 Golden West, Vivian --

14           MR. SMITH: Hang on a second.

15           MR. WIECZOREK: Vivian, Venture, West River,  
16 and Interstate. And I believe and for some of  
17 those we have more than one existing POI due to  
18 their system. I know for sure that's true with  
19 Interstate. I believe that's true for Venture.  
20 And the others I couldn't say for certain.

21           MR. SMITH: You don't with Brookings,  
22 though, huh?

23           MR. WIECZOREK: They're not on my list.

24           MR. COIT: And I think the West River you  
25 mentioned would be the West River out of Hazen,

1 North Dakota? Is it West River Telephone Co-op  
2 or West River Telephone Communications  
3 Cooperative?

4 MR. WIECZOREK: I believe it is the Mobridge  
5 branch.

6 MR. SMITH: They're not requesting the  
7 waiver.

8 MR. SMITH: Cross them out.

9 MS. SISAK: And I would like to just offer  
10 one reminder. Although Western Wireless has  
11 direct connect with the companies mentioned, the  
12 other wireless carriers operating in the area do  
13 not or may not. I'm not positive, but that is --  
14 I think we need to remember that there are other  
15 wireless carriers that will impact the cost of  
16 LNP and will be impacted by these decisions.

17 CHAIRMAN SAHR: Thank you. Any other  
18 questions from Commissioners or advisors? Seeing  
19 none, I move that we go into executive session.

20 Why don't we do this: And this can be back  
21 on the record. It's about 3:00 o'clock right  
22 now. So that we can give everybody here in  
23 Pierre and on line a little bit of certainty, we  
24 will shoot for 3:30 to come back upstairs. And  
25 at least that gives you the minimum amount of

1 time that you have or perhaps if you look at it  
2 the other way, the maximum, but it at least gives  
3 us a target. And realize the Commission may end  
4 up having to take longer, but everyone knows they  
5 have half an hour to check their messages and do  
6 whatever else they need to do.

7 (COMMISSION IN EXECUTIVE SESSION, AND HEARING  
8 RECONVENED AT 4:00 PM.)

9 CHAIRMAN SAHR: Let's go back on the record.

10 We are -- we've come out of executive  
11 session, and we're prepared to make a couple of  
12 motions.

13 I'd like to say at the outset that LNP  
14 clearly comes with a cost associated with that.  
15 And I think the Act contemplates the commissions  
16 reviewing that and looking at not only those  
17 costs, but also the public interest test. And  
18 that's what we attempted to do here.

19 Under these circumstances, that cost, when  
20 coupled with the uncertain demand, makes it  
21 extremely difficult to ask our state's consumers  
22 to bear the cost of intermodal LNP at this time.

23 And certainly another factor that I think  
24 all the Commissioners felt was out there is a  
25 current uncertainty. We have pending FCC

1 proceedings. We have pending court cases. And  
2 it really would be prudent to see how these cases  
3 proceed so we have more certainty as to the  
4 effect of requiring LNP. We also may have the  
5 ability to look and see what happens in other  
6 cases as well and see how those LNP matters  
7 proceed.

8 With that in mind, I'm going to make the  
9 first motion, which will be relating to  
10 intermodal LNP, or wireline to wireless LNP.

11 And I would move that we grant the request  
12 for suspensions until December 31, 2005.

13 COMMISSIONER HANSON: Second.

14 CHAIRMAN SAHR: And we have a second from  
15 Hanson. And I have an additional comment, but I  
16 will go ahead and let --

17 COMMISSIONER BURG: One comment first.

18 CHAIRMAN SAHR: The one thing I would say is  
19 we will work out some of the details on how the  
20 December 31st, 2005, time frame will be -- how  
21 that particular date will work as far as the  
22 procedures for how it will be -- how people can  
23 file to continue suspensions, or to have that  
24 reviewed if they feel it's necessary.

25 So although the suspension is granted until

1 December 31st, 2005, it doesn't limit the ability  
2 of the Commission to grant a further suspension  
3 from 2005, from the December 31st, 2005, on. I  
4 think that's something we'll look at in the  
5 future to see if the carriers affected would file  
6 for suspension, additional suspension.

7 One of the things I would add is I think we  
8 saw that during the hearing we had some very good  
9 negotiations take place, and I would urge people  
10 to continue looking into that and urge the  
11 parties to continue to take steps to try to move  
12 towards LNP.

13 Because no matter what the feelings of this  
14 Commission may be one way or the other, there's  
15 certainly a chance there may be ultimately an LNP  
16 obligation, and there is without a doubt some  
17 consumer benefit to LNP.

18 So I would strongly urge everyone to  
19 continue to work on these issues and to see if  
20 you can't come up with a mutually-acceptable  
21 solution without having the PUC being involved.

22 And then I think the final thing I would add  
23 is just thank you, the PUC staff. They did a  
24 great job. And I think the brief and the  
25 analysis supplied by PUC staff were excellent.

1 And although we did not follow their  
2 recommendations to a T, we certainly appreciated  
3 the analysis; and it gave us a really, I think,  
4 balanced view of the issues.

5 COMMISSIONER BURG: Gary, did you have any  
6 comments you wanted to make, Gary, before I make  
7 mine?

8 COMMISSIONER HANSON: Go ahead, Jim.

9 COMMISSIONER BURG: I will concur in part  
10 and dissent in part with that motion. I concur  
11 that we grant suspension to all petitioners. I  
12 feel they met the requirement approving the  
13 necessity of suspension -- they met the  
14 requirement of proving the necessity of  
15 suspension to avoid significant adverse economic  
16 impact on users of telecommunications generally.

17 I also feel they met the burden to avoid  
18 imposing a requirement that is unduly  
19 economically burdensome. I don't think the key  
20 is to what it costs per customer. I think the  
21 key is what the total cost is. Because the only  
22 way that you get lower per customer is by having  
23 a lot of customers, not that it's any cheaper to  
24 provide that service.

25 And I think -- and later on I'll mention

1           that I think it can be used to better use. I  
2           believe all parties accepted the fact that LNP  
3           could be technically feasible. I don't think  
4           that was an issue. I don't believe the LNP is  
5           right for application in rural areas at this  
6           time.

7                 Several discussions -- decisions, several  
8           decisions need to be made by the FCC and numerous  
9           states have granted suspended waivers because of  
10          that and other reasons, and I agree with those.

11                My threshold for significant economic impact  
12          and undue economic burden is quite low. I do not  
13          see public benefit due to the low estimated LNP  
14          interest and the unavailability of LNP at all in  
15          vast areas of the state. So why should those  
16          consumers bear any additional cost to provide LNP  
17          to others when very few people are going to  
18          benefit?

19                I would further argue that the per line cost  
20          is not the proper indicator, but the total cost  
21          when you consider adverse economic impact. Total  
22          cost is a public interest economic impact. This  
23          is money not available for higher telephone  
24          communications usage, both by wireline and  
25          wireless companies.



1           The fact that transport could be paid by the  
2 wireless companies does not make those costs  
3 disappear. The money spent for transport by  
4 wireless providers is money, I feel, could better  
5 be spent for better and wider wireless services.  
6 If I had my preference -- and I believe a mistake  
7 was made in requiring wireline to wireless  
8 portability at all. I don't think -- I think  
9 it's proven to not be that desirable.

10           And so now I concurred in that part of the  
11 motion. I dissent in the part of the setting a  
12 date specific. I think it just puts us through  
13 this exercise again. I think that even the  
14 desire for LNP is actually going to wane, not  
15 grow. However, my preference would be that a  
16 review is granted on suspension based on evidence  
17 of requests for LNP as a percentage of the  
18 customers in an exchange.

19           If we took that approach and showed that the  
20 actual desirability is out there, that's what I  
21 think should trigger whether we do additional  
22 review or not, rather than just a date certain  
23 down the road on a product that I don't think is  
24 going to be taken and I think is expensive in  
25 general.

1           So with that, that's where I stand on that  
2 motion.

3           CHAIRMAN SAHR: Okay. So that resolved the  
4 issue of the intermodal LNP. We still have the  
5 issue of the LNP for intramodal purposes, which  
6 would be the ITC request for suspension; is that  
7 correct?

8           MR. SMITH: That's right.

9           CHAIRMAN SAHR: And I would move that we  
10 take that under advisement. I think all along we  
11 acknowledged that while there are similarities in  
12 these cases, that the ITC and Midco case involved  
13 some dynamics that aren't in the other cases.  
14 And I think it's appropriate at this time to take  
15 them under advisement and issue an opinion at a  
16 later date.

17           COMMISSIONER BURG: I would second that.

18           COMMISSIONER HANSON: Hanson concurs.

19           COMMISSIONER BURG: And I'd just like to add  
20 I think that there are some reasons to look at  
21 that request for intramodal LNP; however, at this  
22 point it's not nearly clear enough to me as to  
23 how those costs would be distributed. And I  
24 can't imagine that entire cost on those two  
25 counts and not finding a better way to mitigate

1           that. I think with we need to take it under  
2           advisement and investigate that a little bit  
3           farther.

4           CHAIRMAN SAHR: With that, the hearing will  
5           be concluded. And I do want to thank all  
6           involved for their professionalism and input. It  
7           was a long process, but I think it was something  
8           that was a great learning process for everyone.  
9           Thank you.

10           (The hearing concluded at 4:10 p.m.)  
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1 STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT  
2 ) :SS  
3 COUNTY OF STANLEY ) SIXTH JUDICIAL CIRCUIT

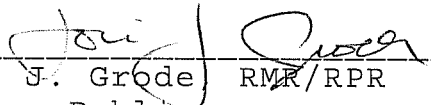
4 I, Lori J. Grode, Registered Merit Reporter and  
5 Registered Professional Reporter and Notary Public in  
6 and for the State of South Dakota:

7 DO HEREBY CERTIFY that the above hearing pages 1  
8 through 73, inclusive, was recorded stenographically by  
9 me and reduced to typewriting.

10 I FURTHER CERTIFY that the foregoing transcript of  
11 the said hearing is a true and correct transcript of the  
12 stenographic notes at the time and place specified  
13 hereinbefore.

14 I FURTHER CERTIFY that I am not a relative or  
15 employee or attorney or counsel of any of the parties,  
16 nor a relative or employee of such attorney or counsel,  
17 or financially interested directly or indirectly in this  
18 action.

19 IN WITNESS WHEREOF, I have hereunto set my hand and  
20 seal of office at Ft. Pierre, South Dakota, this 2nd day  
21 of September, 2004.

22   
23 \_\_\_\_\_  
24 Lori J. Grode RMR/RPR  
25 Notary Public  
My Commission Expires 08-01-07

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF )	FINAL DECISION AND
KENNEBEC TELEPHONE COMPANY FOR )	ORDER; NOTICE OF ENTRY
SUSPENSION OR MODIFICATION OF 47 )	
U.S.C. § 251(B)(2) OF THE COMMUNICATIONS )	TC04-025
ACT OF 1934 AS AMENDED )	

**PROCEDURAL HISTORY**

On February 12, 2004, Kennebec Telephone Company (Kennebec or Petitioner) filed a petition (Petition) pursuant to 47 U.S.C. Section 251(f)(2) and SDCL 49-31-80 seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. From February 25 to April 23, 2004, twenty other rural local exchange carriers filed similar petitions seeking the same relief (two of these later-filed petitions, TC04-077 and TC04-085, were subsequently settled) (excluding settling petitioners, collectively, Petitioners). On April 5, 2004, the Commission issued an order granting intervention to WWC License LLC d/b/a CellularOne (WWC) and the South Dakota Telecommunications Association (SDTA). On April 19, 2004, the Commission issued an order granting Kennebec's request for interim suspension of its obligation to implement LNP pending final decision pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80.

On May 4, 2004, the Commission issued an Order for and Notice of Procedural Schedule and Hearing and of Intent to Take Judicial Notice. On June 16, 2004, the Commission issued a Supplemental Order for and Notice of Hearing establishing the schedule for presentation of general and company-specific testimony in this and the other LNP dockets. On June 21-July 1, 2004, a hearing was held on this matter and the other dockets in which Petitioners seek to suspend their obligations to implement LNP. The company-specific hearing on this matter was held on June 29, 2004. On July 13, 2004, the Commission issued an Order Establishing Briefing and Decision Schedule setting this matter for oral argument and decision on August 31, 2004. On July 15, 2004, the Commission issued an Order Temporarily Suspending Local Number Portability Obligations suspending Kennebec's LNP obligations until September 7, 2004, in order to accommodate the briefing and decision schedule in the case. On August 31, 2004, the Commission heard oral arguments from the parties in this and the other LNP dockets. Following oral argument, the Commission voted unanimously to suspend Petitioners' obligations to implement intermodal local number portability pursuant to 47 U.S.C. §251(b)(2) and SDCL 49-31-81. A majority of the Commission voted to suspend Petitioners' intermodal LNP obligations until December 31, 2005. Commissioner Burg dissented from this portion of the decision, indicating that he supported an indefinite suspension of intermodal LNP obligations for all Petitioners requesting suspension of LNP obligations. The Commission voted unanimously to defer decision regarding intramodal number portability requirements without specifying whether the deferral applied to all LNP dockets or just those in which Midcontinent Communications had intervened and objected to suspending intramodal LNP requirements. On September 4, 2004, the Commission issued an order temporarily suspending all LNP requirements for all petitioners until September 30, 2004, in order to provide sufficient time for the finalization of the findings of fact and conclusions of law and to render a final decision regarding intramodal LNP. On September 22, 2004, the Commission voted unanimously to suspend intramodal LNP obligations for all Petitioners until December 31, 2005, with special conditions for those dockets in which Midcontinent remains an intervening party.

Having considered the evidence of record and applicable law, the Commission makes the following Findings of Fact, Conclusions of Law and Final Decision and Order:

### **FINDINGS OF FACT**

"TR" refers to the Transcript of Proceedings of the hearing held on June 21-July 1, 2004, in this docket and the other LNP suspension dockets. References will be to TR and page number(s).

1. Kennebec filed the Petition on February 12, 2004. On February 19, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of March 5, 2004, to interested individuals and entities. WWC filed to intervene on March 4, 2004. SDTA filed to intervene on March 5, 2004. On April 5, 2004, the Commission issued an order granting intervention to WWC and SDTA.

2. By its May 4, 2004 Order for and Notice of Procedural Schedule and Hearing and of Intent to Take Judicial Notice and June 16, 2004 Supplemental Order for and Notice of Hearing, this matter was duly noticed for hearing on June 21-July 1, 2004, with the company-specific hearing on this matter to be held on June 29, 2004. The hearing was held as scheduled.

3. The parties to this docket agreed that a temporary suspension of LNP obligations until September 7, 2004, should be granted to Kennebec to enable a reasonable briefing and decision schedule in this and the other LNP suspension dockets. On July 15, 2004, the Commission issued an Order Temporarily Suspending Local Number Portability Obligations suspending Kennebec's LNP obligations until September 7, 2004, in order to accommodate the briefing and decision schedule in the case. No objection was filed to this order. On September 4, 2004, the Commission issued an Order Temporarily Suspending Local Number Portability Obligations suspending Kennebec's LNP obligations until September 30, 2004, in order to provide sufficient time for the finalization of the findings of fact and conclusions of law and to render a final decision regarding intramodal LNP.

4. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996, 47 U.S.C. chapter 5 (the "Act") requires local exchange carriers "to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the [Federal Communications] Commission." 47 U.S.C. § 251(b)(2). In *Matter of Telephone Number Portability*, CC Docket 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (November 10, 2003) (the "*Intermodal Order*"), the Federal Communications Commission (FCC) required local exchange carriers that are located outside of the top 100 metropolitan statistical areas to provide LNP and to port numbers to wireless carriers. Pursuant to this order, local exchange carriers were required to provide LNP by the later of May 24, 2004, or six months after the date that the local exchange carrier received a bona fide request.

5. 47 U.S.C. §153(30) defines "number portability" as follows:

The term "number portability" means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

In the *Intramodal Order*, ¶¶ 25 and 28, the FCC addressed the question of "at the same location" as follows:

[W]e find that . . . LECs must port numbers to wireless carriers where the requesting carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned. . . . We conclude that porting from a wireline to a wireless carrier that does not have a point of interconnection or numbering resources in the same rate center does not, in and of itself, constitute location portability, because the rating of calls to the ported number stays the same.

The term "intramodal number portability" as it applies to the Petition refers to the ability to port a number from a wireline carrier, such as Petitioner, to another wireline carrier. The term "intermodal number portability" as it applies to the Petition refers to the ability to port a number from a wireline carrier, such as Petitioner, to a wireless carrier. The Petition seeks suspension of both intermodal and intramodal number portability obligations. No wireline carrier other than Petitioner is a party to this docket.

6. The determinations that the Commission must make before suspending or modifying an RLEC's obligation to provide LNP to requesting carriers are set forth in SDCL 49-31-80 which reads as follows:

Consistent with 47 U.S.C. § 251(f)(2) as of January 1, 1998, the commission may grant a suspension or modification of any of the interconnection or other requirements set forth in 47 U.S.C. §§ 251(b) and 251(c), as of January 1, 1998, to any local exchange carrier which serves fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide. Any such carrier shall petition the commission for the suspension or modification. The commission shall grant the petition to the extent that, and for such duration as, the commission determines that the requested suspension or modification is consistent with the public interest, convenience, and necessity and is necessary:

- (1) To avoid a significant adverse economic impact on users of telecommunications services generally;
- (2) To avoid imposing a requirement that is unduly economically burdensome; or
- (3) To avoid imposing a requirement that is technically infeasible.

The commission may suspend enforcement of the requirement or requirements identified in the petition pending final action on the requested suspension or modification.

The language and substance of SDCL 49-31-80 and 47 U.S.C. § 251(f)(2) are essentially the same.

7. By its Order for and Notice of Procedural Schedule and Hearing and of Intent to Take Judicial Notice issued on May 4, 2004, the Commission gave the following notice of intent to take judicial notice:

The Commission hereby gives notice pursuant to SDCL 1-26-19(3) that it intends to take judicial notice of the fact that Petitioner is a local exchange carrier with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide. Any party objecting to this taking of judicial notice shall serve notice of such objection on the Commission and the parties prior to the hearing.

No party to the docket served notice of objection or otherwise noted any objection to this taking of judicial notice. Accordingly, the Commission takes judicial notice of the fact and finds that Kennebec is a local exchange carrier with fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide pursuant to SDCL 49-31-80 and 47 U.S.C. §251(f)(2).

8. Kennebec is a rural local exchange carrier (RLEC) that provides local exchange and exchange access services to 751 access lines of which 31 are Lifeline service. Kennebec Ex 1, p. 1; 47 U.S.C. §153(37).

9. Two wireless carriers have made bona fide requests for LNP from Kennebec. TR 957. No wireline carrier has made a bona fide request for LNP. Kennebec Ex 1, p. 4.

10. Under SDCL 49-31-80, the Commission is required to determine the extent to which the requested suspension or modification is consistent with the public interest, convenience and necessity and whether the suspension or modification is necessary to avoid at least one of the three adverse effects set forth in subdivisions (1), (2) and (3) of the statute.

11. There was essentially no disagreement by any of the experts who testified on behalf of Petitioners that LNP is technically feasible. TR 175, 997. The testimony of Petitioners' witnesses to the effect that LNP was not technically feasible was based upon the present absence of the necessary switch upgrades and direct trunk connections with requesting carriers conforming to existing interconnection agreements. We find that this does not establish technical infeasibility, although the Commission recognizes that Petitioner would require a period of time to install and implement the necessary technology. The switch upgrade and interconnection facilities assumed by Petitioners' witnesses to establish their transport costs demonstrate that LNP is technically feasible. According to several of the Petitioners' manager witnesses, LNP is technically feasible. Bryan Roth, manager for McCook, agreed that LNP was technically feasible. TR. at 829. Pamela Harrington, general manager of Roberts County and RC, stated that LNP is technically feasible with the proper upgrades. TR. at 1049. Dennis Law, Golden West's manager, stated that his companies are technically able to connect to the Qwest tandem. TR. at 791-792. It is technically feasible for each of the Petitioners to implement LNP. It would take action on Petitioners' parts and would cost Petitioners money in varying levels to implement LNP, but the technology and network facilities exist for it to be implemented. The decisions in each of Petitioners' cases must therefore turn upon the two economic standards and the public interest determination.

12. The Commission finds that granting a suspension of Kennebec's local number portability obligations under 47 U.S.C. §251(b)(2) until December 31, 2005, is consistent with the public interest, convenience and necessity. The Commission further finds that at the present time, granting a suspension to Kennebec is necessary to avoid a significant adverse economic impact on Kennebec's users of telecommunications services generally and to avoid imposing a requirement that is unduly economically burdensome on Kennebec. These findings are based upon the specific findings set forth below.

13. In a June 18 letter to the President of the National Association of Regulatory Utility Commissioners (NARUC), the Chairman of the FCC, Michael Powell, recognized the potential burden of LNP implementation on small businesses, particularly rural local exchange carriers, and encouraged state commissions to exercise their authority under 47 U.S.C. §251(f)(2) to grant the requested relief if the State Commissions deem it appropriate. TR 566-568; Venture Ex 4. Chairman Powell directed "State Commissions to consider the burdens on small businesses in addressing those waiver requests and to grant the requested relief if the State Commissions deem it appropriate." Venture Ex 4.



14. At least part of the determination of whether a suspension of a Petitioner's LNP requirements is consistent with the public interest, convenience and necessity involves weighing the costs to the LEC and/or its users against the benefits to be derived from the incurrence of such costs. *Order Granting Suspension, Applications Nos. C-3096, et seq.*, Nebraska Public Service Commission (July 20, 2004). As discussed in detail below, the Commission finds that at this time, the benefits to consumers from LNP in the rural areas served by Petitioners simply have not been sufficiently demonstrated to outweigh the burden that imposing LNP implementation at this time will place on Petitioners and the rural citizens who rely on Petitioners for essential, provider-of-last-resort telephone service.

15. Another factor that we find is highly relevant to our determination of whether the granting of the requested suspension at this time is in the public interest involves the significant level of uncertainty that currently exists concerning (i) the appropriate technical solution for transport of calls to ported numbers in rural areas, (ii) the respective responsibilities, and attendant costs, of providing transport for calls to ported numbers outside the local calling area of Petitioners, (iii) the routing and rating of calls to ported numbers, (iv) the porting interval, (v) the demand for number porting, particularly in the areas where signal coverage is spotty or non-existent and (vi) the extent to which the presence of LNP is a marginal factor in the consumer's purchasing decision for alternative services such as wireless service. Suspending Petitioners' LNP obligations until December 31, 2005, will enable the unresolved issues concerning transport, routing and rating and porting interval to be addressed in the proceedings pending before the FCC, and will provide a period of time for (vii) the Petitioners and intervenors to continue to investigate, negotiate and hopefully resolve many of the interconnection, transport and routing and rating issues between them, (viii) wireless carriers to continue their build-outs of facilities to provide more extensive and reliable signal coverage throughout Petitioners' service territories and (ix) for the accumulation of data concerning the deployment of LNP in other areas and concerning the benefits of LNP -- particularly whether demand for LNP in fact materializes and is in fact demonstrated to be of material significance in the consumer's purchasing decision for alternative services.

16. A final factor that we believe is appropriate to consider in any public interest decision involving rural local exchange carriers is reflected in one of the central policy objectives of the Act and SDCL Chapter 49-31 - the duty to provide and preserve universal service. 47 U.S.C. §§ 214(e) and 254; SDCL 49-31-76 and 49-31-78 through 49-31-81. Petitioners, all of whom are the incumbent local exchange carriers and eligible telecommunications carriers under the Act, shoulder the responsibility for providing essential telecommunications to all persons within their service territories as carriers of last resort.

17. The record amply demonstrates that the costs to Kennebec to implement number portability will be significant. These costs fall into three general categories: switch upgrade, transport and recurring operational costs. The evidence addressing Kennebec's costs of implementing LNP was conflicting. Kennebec's cost witness projected the non-recurring cost for Kennebec to implement LNP to be \$98,569 excluding transport and \$99,970 including transport. He estimated the recurring monthly costs for Kennebec to be \$381 excluding transport and \$5,218 including transport. Kennebec's cost witness projected that these costs would translate into an LNP cost of \$3.45 per line per month excluding transport and \$10.07 including transport. WWC Ex 18. WWC's witness projected a non-recurring cost of \$50,594 excluding transport and \$50,994 including transport. WWC Ex 18; TR 1019-1020, 1024-1026. WWC's cost witness projected recurring monthly cost for Kennebec at \$243 excluding transport and \$361 including transport. WWC Ex 18. WWC projected these costs would translate into an LNP cost of \$1.84 cost per line per month excluding transport and \$2.01 including transport. WWC Ex 18.

18. One of the major reasons for the differences in projected per line costs concerned switch-related investment costs. The issue is whether generic upgrades should be included as a cost. WWC's witness agreed that Kennebec could not actually implement LNP without the generic upgrade but stated that the upgrade is "part of ongoing switch operations, maintenance investments, and includes other features and capability sets unrelated to LNP and, therefore, shouldn't be included when one's trying to estimate the cost of what LNP costs for a company." TR. at 1024-25. WWC accordingly excluded the costs for the generic upgrade to Kennebec's switch in the amount of \$31,400. TR at 1024.

19. Kennebec's cost witness did not check with Kennebec as to whether it had planned to upgrade Kennebec's host switch at any time in the future. TR. at 1006. Kennebec's witness further stated that he did not know what other benefits would be derived from the generic upgrade or if it provides extra services. TR. at 999 to 1000.

20. The Commission finds that the costs for the generic upgrades can be considered in this proceeding. It is not disputed that the generic upgrade will need to be completed before LNP can be implemented. Whether the costs can be included in an LNP customer surcharge is not dispositive when considering whether the costs of LNP for the rural LEC and its users meet the statutory standards for suspension -- these costs can still be recovered from the customer through an increase in local rates and will in any case result in a cost incurrence by Kennebec. Thus, we find that the total and per line costs excluding transport will be closer to Kennebec's estimate than to Western Wireless' estimate. The Commission further finds, however, that information concerning the switch upgrade plans of Kennebec would be useful information and that if Kennebec later asks for a further suspension, Kennebec should provide more information regarding when it plans to do a generic upgrade.

21. The second major area of disagreement regarding the costs of implementing LNP for Kennebec and the other Petitioners was transport. Transport costs comprised a significant portion of the costs to implement LNP as estimated by all Petitioners including Kennebec. Transport costs as estimated by WWC were considerably smaller. Kennebec proposed a transport method using a DS1 (T1) circuit installed between the Kennebec host switch to each wireless carrier that is currently providing service in Kennebec's territory that does not already have a direct trunk into Kennebec's network. TR. at 993.

22. By contrast, WWC's routing method was based on converting the existing one-way, incoming trunk from the Qwest tandem, used to deliver Qwest traffic to Kennebec's customers via Kennebec's host switch, into a two-way trunk and using Qwest as a transit carrier. According to WWC's witness, this routing method would result in a significantly lower estimated monthly recurring cost for transport for Kennebec - \$4,837 per month as calculated by Kennebec's witness vs. \$118 per month as calculated by WWC's witness.

23. The basis for the routing methodology proposed by Kennebec's cost witness was:

. . . First, routing of local calls to a point of interconnection located within the RLEC exchange is consistent with the terms of the Interconnection Agreement entered into between Western Wireless and RLECs.

Second, RLECs do not route local traffic to a point of interconnection outside of its local exchange or service area. Requiring RLECs to route traffic to a point of interconnection outside of its exchange or service area would add the responsibility of a LEC from providing local exchange service and exchange access to providing interexchange service as well. TR 994.

24. In the *Intramodal Order*, the FCC stated in ¶ 1:

[W]e clarify that nothing in the Commission's rules limits porting between wireline and wireless carriers to require the wireless carrier to have a physical point of interconnection or numbering resources in the rate center where the number is assigned. . . . In addition, . . . we clarify that wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between the carriers.

25. The FCC left open the unanswered questions presented by this holding with respect to how carriers are to handle routing and transport of calls to ported numbers in the absence of points of interconnection between the LEC and the wireless carrier. The FCC stated as follows with respect to this issue in Footnote 75 at ¶ 28 and in ¶ 40 of the *Intramodal Order*.

<sup>75</sup>As noted in paras. 39-40 below, there is a dispute as to which carrier is responsible for transport costs when the routing point for the wireless carrier's switch is located outside the wireline local calling area in which the number is rated. See Sprint Petition for Declaratory Ruling. The existence of this dispute over transport costs does not, however, provide a reason to delay or limit the availability of porting from wireline to wireless carriers.

We make no determination, however, with respect to the routing of ported numbers, because the requirements of our LNP rules do not vary depending on how calls to the number will be routed after the port occurs. Moreover, as CTIA notes, the rating and routing issues raised by the rural wireline carriers have been raised in the context of non-porting numbers and are before the Commission in other proceedings. Therefore, without prejudging the outcome of any other proceeding, we decline to address these issues at this time as they relate to intermodal LNP.

The FCC is considering this issue in a pending docket. See *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002.

26. WWC produced evidence through its cost witness, Mr. Williams, that its suggested transport method of adding a bi-directional capability to the trunk currently carrying Qwest traffic into Kennebec's switch from the Qwest tandem in Sioux Falls was technically feasible and was proposed as a transport mechanism, subject to resolution of transport rate issues with Qwest, by certain ILEC members of the Minnesota Independent Coalition before the Minnesota PUC in *Matter of the Petition by the Minnesota Independent Coalition for Suspension or Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. §251(f)(2)*, Docket No. P-et al/M-04-707. TR 579-582, 587-589; WWC Ex 6. A temporary suspension of LNP obligations was ultimately granted by the Minnesota PUC in this docket on July 8, 2004. As of the decision date, however, the transport pricing issues between the petitioning MIC members and Qwest had still not been resolved, and in its Order Granting Suspension, the MPUC was required to provide a 90 day period for negotiation after which the matter would come back to the commission for arbitration.

27. Mr. Williams's belief that the Minnesota Qwest tandem solution was available to Petitioners was based upon his prior experience with Qwest's provisioning of services, his review of Qwest's Statement of Generally Available Terms and Conditions (SGAT) and tariffs. TR 552. Mr. Williams further testified:

"There are Interconnection Agreements available today in South Dakota that can be opted into within a matter of days, and Western Wireless has such an agreement. That agreement calls for transit at three-tenths of a cent, and there's nothing to prevent any carrier from opting into that agreement. TR 734.

Based upon this, Mr. Williams testified that he estimated the cost to Petitioners of transport provided by Qwest to be .3 cents per minute. TR 552, 734.

28. WWC's witness also testified, however, that he had not in fact discussed this proposal with Qwest. TR 932. Furthermore, WWC did not make reference to the specific tariff or SGAT provisions or rate schedules upon which he based these conclusions, and the Commission has been unable to determine from a review of the Qwest tariffs and SGAT alone whether WWC's proposed transport mechanism would in fact be available to Kennebec for the purpose of transporting calls to ported numbers outside the local exchange area as local calls or, if so, what the actual pricing and terms of such service would be.

29. With respect to the existing Type 2 Wireless Interconnection Agreement between U S West Communications, Inc. and WWC License, L.L.C. for the State of South Dakota, it is not obvious that Kennebec would be able to opt into the agreement. The agreement is a comprehensive wireless to wireline interconnection agreement specifically designed for the situation where one party is a wireless carrier. In *Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Second Report and Order, FCC04-164 (rel. July 13, 2004), the FCC took away the right of carriers to opt into only selected terms of Section 251 interconnection agreements, stating in ¶ 1:

In this Order, we adopt a different rule in place of the current pick-and-choose rule. Specifically, we adopt an "all-or-nothing rule" that requires a requesting carrier seeking to avail itself of terms in an interconnection agreement to adopt the agreement in its entirety, taking all rates, terms, and conditions from the adopted agreement.

We accordingly do not find that Kennebec could necessarily simply opt into WWC's interconnection agreement with Qwest either in its entirety or as to only one particular provision.

30. WWC stated at the hearing that WWC would pay for transport on an interim basis, until the final FCC decision on transport, provided the Qwest tandem-based routing method was used. TR. at 939. The Commission finds, however, that this temporary commitment could leave Kennebec with the burden of paying the costs of transport outside of its service area in the future, that there is no certainty at this time as to what those costs would be and that Kennebec would then have been compelled to incur the substantial switch upgrade and other non-transport costs of LNP implementation.

31. Lastly, as to this issue of transport, we note the testimony of Mr. Bullock, cost witness for several of Petitioners, who stated:

In telephone toll traffic there's a considerable track record of interexchange carriers providing toll service, and I think it's safe to assume that the bugs have been worked out of the interfaces that are required between local exchange access service providers such as the local exchange companies we're talking about here today and interexchange carriers such as AT&T and Sprint that reliably pass information back and forth to enable the proper routing and rating of calls and the proper rating and identity of the calling party.

In terms of the exchange of local traffic through an intermediate tandem service provider, I'm not so sure that's a safe assumption to make. TR 879-880.

32. Other factors that influenced the differences between Kennebec's and WWC's estimates of the cost of LNP implementation primarily involved the ability of Kennebec to reduce administrative mobilization costs through sharing with other RLECs.

33. Although there was evidence in the record that at least some of the Petitioners', including Kennebec, could include at least some costs of implementing LNP in the Petitioners' applications for universal service support funds from the Universal Service Administration Company, TR 954, the FCC, in two recent orders and the Federal-State Joint Board on Universal Service have recently recognized the increasing cost of providing universal service support in a competitive environment and recognized the propriety of both the FCC and state commissions considering the impact on the universal service fund in their public interest determinations. *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the State of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338, ¶ 4 (rel. Jan. 22, 2004) ("*Virginia Cellular Order*"); *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37, ¶ 4 (rel. April 12, 2004); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 04J-1 (re. February 27, 2004).

34. We find that implementing LNP at this time could cost Kennebec or its users as much as \$3.45 per line per month excluding transport and that the costs of transport, if ultimately held to be Kennebec's responsibility, would raise that monthly cost even higher.

35. The areas served by Kennebec are older and have lower incomes than the nation as a whole. Kennebec Ex 1.

36. All Petitioners, WWC and SDTA presented evidence of demand for LNP or the lack thereof. Demand for LNP has relevance both to the costs to be incurred by Petitioners to provide LNP and to the benefit side of a cost-benefit analysis for both the public interest and adverse economic effect analyses. In the case of many of the Petitioners, differences in estimated ports produced differences in recurring costs, but in Kennebec's case, both Kennebec's and WWC's cost witnesses used the same estimated porting number to derive estimated costs.

37. Davis, the cost witness for Beresford, Kennebec, Midstate, Roberts County/RC, and Western, used porting estimates when he calculated the cost to implement LNP. However, at the hearing, he stated that his porting numbers should not be taken as "any sort of estimate for demand" and that he did not do any type of empirical analysis. TR. at 1009-10. He just picked a number to "show a relationship between a specific demand level and what the resulting costs would be." TR. at 1009.

38. Kennebec's manager testified that Kennebec had received no requests for LNP from its customers. Kennebec Ex 1. In the responses to a survey conducted by Kennebec of its customers, a "second common theme was that wireless service was poor or nonexistent in many of the areas served by Kennebec. Id. The survey did demonstrate that some portion of Kennebec's customers would be willing to pay for the availability of LNP. 21.4% of survey respondents testified that they would be willing to pay \$0.50 for LNP. This percentage dropped to 11.8% at \$1.00, 2.6% at \$2.00 and 1.6% at \$3.00. Id.

39. Steven Watkins, a witness for the Petitioners, stated that NeuStar reported that "95% of wireless ports have been from one wireless carrier to another and only 5% of wireless ports were between wireline and wireless carriers." SDTA Ex 1 at 11. He noted that these numbers were based on wireless to wireline reporting in more urban areas and expected that interest in rural areas would be even less. Id. He stated that in rural areas "the public does not recognize wireless service as an absolute substitute for wireline service" due to reliability and that "demand for wireless service is more for its mobile capability[.]" Id. at 12. He further stated that even for customers who decide to give up their wireline service for wireless generally will try wireless service first and then drop their wireline service. Id. Thus, there would not be a need to port numbers in that case. Id.

40. Bullock, the cost witness for Alliance/Splitrock, Armour/Bridgewater/Union, Faith, Golden West/Vivian/Kadoka, McCook, Sioux Valley, Tri-County, and Valley, stated that he assumed that if LNP were required, the wireless companies would begin an aggressive marketing campaign which may generate some porting activity. TR. at 890. He also assumed that some of the customers would port back to the wireline carrier. Id. He stated that he did not do a scientific analysis since there is no track record for number porting in rural areas. Id. He also stated that his porting estimates were not based on the number of wireless carriers operating in any particular area. Id. at 891. Bullock's estimated number of ports were higher than DeWitte's and ranged from 0.694% to 3.061% of a company's access lines per year.

41. WWC's witness, Williams, stated that WWC's porting estimates were "based on what we thought we would be able to obtain as a result of both our coverage and our view of what their demographics represented." TR. at 1031. His estimates for ports, based on each company's number of access lines, ranged from a low of 2.743% for Golden West to a high of 3.528% for Brookings. WWC Ex 9, 15, 18, 19. Williams further stated that, for most of the companies, the numbers are close to what WWC would expect in WWC's rural areas, which is approximately 15 percent intermodal porting over a five year period. TR. at 1031. He assumed that WWC would have about 45% of the total estimated ports. TR. at 690. Williams stated that there has not yet been any experience in intermodal porting in rural service areas so far. Id. He went on to state that there is a track record for wireline to wireline portability and that has resulted in an annual migration of 3.5% to 4.5%. Id. at 1033. He also stated that he would not expect wireline to wireless migration to be that high. Id.

42. The demand for porting will likely fall somewhere in between the numbers as forecasted by the Petitioners and those set forth by WWC. WWC's estimates are probably too high based on a number of factors. First, according to Williams' own testimony, wireline to wireline portability on a national basis has only resulted in porting percentages of 3.5% to 4.5%. TR. at 1033. Moreover, a survey regarding wireless porting showed that only 5% of wireless ports nationwide were between wireline and wireless carriers. SDTA Ex 1 at 11. On the other hand, DeWitte's estimates that averaged less than two tenths of one percent appear to be somewhat low. For example, in Kennebec, 12% of the survey respondents stated they would be willing to pay a dollar a month in order to have the ability to port their wireline numbers to their wireless carrier. TR. at 965. In addition, one of the cost witnesses, Bullock, used estimates that ranged from 0.694% to 3.061%.

43. The "benefit" to be derived from LNP for a given company's customers is in part dependent on demand. The uncertainty concerning the number of ports to be expected does intersect an additional element of uncertainty into the recurring costs for Petitioners to provide LNP. To the extent that the number of ports increases, however, and thereby increases the costs of providing LNP, this increase in costs due to greater demand could be argued to be balanced, in terms of cost-benefit analysis by the greater benefit to be received by Petitioners' customers.

44. In *Matter of Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, ¶ 29 (1996) (*First Report and*

Order), the FCC found that local number portability was a significant factor limiting a customer's decision to switch telecommunications service providers. In the *Intramodal Order*, the FCC extended this reasoning to intermodal portability. However, the FCC in *Virginia Cellular* and again in *Highland Cellular* recently emphasized that competition *per se* is not a sufficient basis upon which Commissions should base public interest decisions involving rural, high cost service areas. Although WWC presented evidence as to the number of ports it expected to obtain, TR 1033, no empirical evidence was introduced to demonstrate that LNP would materially increase the number of customers subscribing to wireless service within Petitioners' service areas or, stated conversely, that the inability to port landline phone numbers to a wireless phone within Petitioners' service areas is a significant negative factor influencing potential customers for wireless service to forego purchasing WWC's service. Petitioners provided evidence that WWC is successfully competing for customers within Petitioners' service territories without intermodal LNP. TR 312. WWC itself introduced a survey that demonstrated that wireless market penetration would be significant. The survey results were not dependent on LNP. TR 645-646. WWC Ex 11. Brookings's Manager testified that as a result of migration of customers, primarily college students, from landline to totally wireless, Brookings had lost 1,200 access lines over the past 3 years. TR 311. He further testified, "[W]e have pretty fair competition without local number portability. . . . [I]n an environment where competition is being served, the customers are, in fact, migrating as they desire from wireline to wireless." TR 312. Midstate's manager testified that in its CLEC operation in Chamberlain/Oacoma, LNP had not been a significant competitive driver in the intramodal arena. Out of Midstate's 787 customers, only 8 were ported numbers. TR 976.

45. There are presently at least three sources of significant uncertainty concerning the obligations and resulting costs to Petitioners and their customers to implement LNP in their rural service areas. These three sources of significant uncertainty are: (i) the pending appeal of the *Intramodal LNP Order* in *United States Telecom Assn. v. FCC*, Cases No. 03-1414 and 03-1443 (D.C. Cir.); (ii) the unresolved apportionment of interconnection and transport obligations of the RLEC and the requesting wireless carrier; and (iii) the porting interval that the RLEC must meet. The latter two of these uncertainties arise from the language in paragraph 1 of the *Intermodal Order* in which the FCC stated:

[W]e clarify that nothing in the Commission's rules limits porting between wireline and wireless carriers to require that wireless carrier to have a physical point of interconnection or numbering resources in the rate center where the number is assigned. . . . In addition, . . . we clarify that wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between the carriers. We also decline to adopt a mandatory porting interval for wireline-to-wireless ports at the present time, but we seek comment on the issue as noted below.

Proceedings are currently pending before the FCC to address these unresolved issues.

46. Lastly, WWC's witness stated that it would be appropriate for the Commission to give Kennebec a suspension until March 31, 2005. TR. at 661-62.

47. Given the projected significant costs of providing LNP, the limited demonstrated present demand for LNP, the older and poorer demographic characteristics of Kennebec's population base and the uncertainties currently attending LNP implementation and provision in Petitioners' territories, the Commission finds that the cost-benefit equation weighs in favor of suspending Kennebec's LNP obligations for a period of time within which some of the uncertainties might be resolved. Kennebec

would benefit from additional certainty which will result from the FCC's acting on issues such as porting intervals and transport and routing issues. After the FCC decisions are issued, Petitioners and the Commission should have a clearer picture of what costs must be incurred to implement LNP. The decisions may result in lower projected costs or higher projected costs, but either way, there should be more certainty. Further, the additional time should result in the ability to more accurately predict demand based on what has occurred in other rural areas. Depending on the demand that is experienced in other rural areas where LNP has been implemented and the more certain cost inputs, it is possible that a further suspension might be justified. On the other hand, if substantial demand or other demonstration of marginal benefit is demonstrated, then the Commission may decide to deny further suspension requests.

48. The Commission accordingly finds that it is consistent with the public interest convenience and necessity to suspend Kennebec's obligations under 47 U.S.C. §251(b)(2) and SDCL 49-31-81 to provide local number portability to requesting carriers until December 31, 2005.

49. With respect to the additional standards set forth in SDCL 49-31-80 and 47 U.S.C. §251(f)(2), the Commission finds that the first two standards, subdivisions (1) and (2), focus on economic impacts. The first standard is centered on users, i.e. customers. This requires the Commission to make a judgment as to what level of adverse economic impact on customers renders the impact "significant." The judgment of whether an impact is significant is in turn influenced by what benefits flow to the customers from imposition of the impact.

50. The second standard requires the Commission to look at whether implementation of LNP would impose a requirement that is unduly economically burdensome. The statutory language does not specify as to whom the level of burdensomeness is to be assessed. The Commission concludes that this standard should be applied to assess the burdensomeness of the requirement on both the consumer and the company. Since the company is the petitioner, it seems probable that in the absence of language to the contrary, the language refers to the petitioner. Other reasons for treating this criterion as applicable to both company and customers include the uncertainties surrounding how the costs of LNP will be distributed between the company and its consumers and the difficulty, at this point, of determining with any degree of certainty the surcharge amount that could be charged by the company to its customers.

51. Given the significant costs of implementing and providing LNP services in the Kennebec area, the current absence of customer requests for LNP, the apparent low demand for the availability of LNP, the absence of any alternative wireline service in the Kennebec area and the presence of significant coverage gaps in wireless service in Kennebec's territory at this time, the Commission finds that suspending Kennebec's LNP obligations until December 31, 2005, is necessary to avoid a significant adverse economic impact on the users of Kennebec's telecommunications services generally.

52. Based upon the same findings, the Commission further finds that suspending Kennebec's LNP obligations until December 31, 2005, is necessary to avoid imposing a requirement that is unduly economically burdensome on Kennebec.

### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction, pursuant to SDCL 49-31-80, 47 U.S.C. § 251(f)(2) and ARSD 20:10:32:39, to hear and decide the Petition and to issue an order suspending or modifying Kennebec's obligations to implement local number portability pursuant to 47 U.S.C. §251(b)(2) and



SDCL 49-31-81. The Commission had authority pursuant to SDCL 49-31-80 and 47 U.S.C. §251(f)(2) to issue a suspension of Kennebec's LNP obligations pending final action on Kennebec's requested suspension and to issue a temporary suspension to September 30, 2004.

2. SDCL 49-31-80 and 47 U.S.C. §§251(f)(2) give the Commission authority to grant a suspension or modification of local number portability obligations if the local exchange carrier has fewer than two percent of subscriber lines nationwide and the commission determines that the requested suspension or modification is consistent with the public interest, convenience, and necessity and is necessary:

- (1) To avoid a significant adverse economic impact on users of telecommunications services generally;
- (2) To avoid imposing a requirement that is unduly economically burdensome; or
- (3) To avoid imposing a requirement that is technically infeasible.

The commission may suspend enforcement of the requirement or requirements identified in the petition pending final action on the requested suspension or modification.

3. In *Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325, 11 FCC Rcd 15499 (1996), the FCC adopted the rule codified at 47 U.S.C. §51.405(d), which reads as follows:

(d) In order to justify a suspension or modification under section 251(f)(2) of the Act, a LEC must offer evidence that the application of section 251(b) or section 251(c) of the Act would be likely to cause undue economic burden beyond the economic burden that is typically associated with efficient competitive entry.

This rule was vacated by the Eighth Circuit Court of Appeals in *Iowa Utils. Bd. v. F.C.C.*, 219 F.3d 744 (8th Cir. 2000). The Commission accordingly concludes that this standard and rule does not bind the Commission's discretion in this case.

4. Kennebec is a local exchange carrier serving fewer than 2 percent of the nation's subscriber lines installed in the aggregate nationwide. Kennebec is accordingly entitled to petition for suspension of its obligations to provide local number portability.

5. The first two standards, subdivisions (1) and (2), focus on economic impacts. The first standard is centered on users, i.e. customers. This requires the Commission to make a judgment as to what level of adverse economic impact on customers renders the impact "significant." The judgment of whether an impact is significant is in turn influenced by what benefits flow to the customers from imposition of the impact.

6. The second standard requires the Commission to look at whether implementation of LNP would impose a requirement that is unduly economically burdensome. The statutory language does not specify as to whom the level of burdensomeness is to be assessed. The Commission concludes that this standard should be applied to assess the burdensomeness of the requirement on both the consumer and the company.

7. Granting a suspension to Kennebec of the requirements to provide local number portability, both intramodal and intermodal, imposed by 47 U.S.C. §251(b)(2), SDCL 49-31-81 and the rules and orders of the FCC is in the public interest.

8. Granting a suspension of Kennebec's intramodal and intermodal LNP obligations until December 31, 2005, is necessary to avoid a significant adverse economic impact on the users of Kennebec's telecommunications services generally.

9. Granting a suspension of Kennebec's intramodal and intermodal LNP obligations until December 31, 2005, is necessary to avoid imposing a requirement that is unduly economically burdensome on Kennebec.

10. The suspension granted herein does not relieve Kennebec of its obligation to properly route calls to numbers ported between other carriers, including wireless carriers.

It is therefore

ORDERED, that Kennebec's obligation to implement local number portability, both intramodal and intermodal, imposed by 47 U.S.C. §251(b)(2), SDCL 49-31-81 and the rules and orders of the FCC is hereby suspended pursuant to 47 U.S.C. § 251(f)(2), SDCL 49-31-80 and ARSD 20:10:32:39, until December 30, 2005; and it is further

ORDERED, that should Kennebec desire to continue the suspension following December 31, 2005, the company shall file its petition for suspension on or before October 1, 2005. As part of such filing, Kennebec shall include a schedule setting forth its planned upgrades to its switching system; and it is further

ORDERED, that the suspension granted herein does not relieve Kennebec of its obligation to properly route calls to numbers ported between other carriers, including wireless carriers.

#### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 30th day of September, 2004. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 30th day of September, 2004.

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Mildred Kalbo

Date: 9/30/04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman

Gary Hanson  
GARY HANSON, Commissioner

James A. Burg  
JAMES A. BURG, Commissioner