

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

In the Matter of the Petition of Alliance Communications Cooperative, Inc. and Hills Telephone Company, Inc. for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-006
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	Docket TC08-007
In the Matter of the Petition of Faith Municipal Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-008
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	Docket TC08-009
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	Docket TC08-010
In the Matter of the Petition of Venture Communications Cooperative, Inc. for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-011
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	Docket TC08-012
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	Docket TC08-013
In the Matter of the Petition of Golden West Telecommunications Cooperative, Inc. for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-014
In the Matter of the Petition of Vivian Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-015

In the Matter of the Petition of Kadoka Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-016
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	Docket TC08-017
In the Matter of the Petition of Union Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-018
In the Matter of the Petition of Armour Independent Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-019
In the Matter of the Petition of McCook Telephone Company and Tri-county Telcom for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-020
In the Matter of the Petition of Bridgewater-Canistota Independent Telephone Company for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-021
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	Docket TC08-022
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	Docket TC08-023
In the Matter of the Petition of Interstate Telecommunications Cooperative, Inc. and Hills Telephone Company, Inc. for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-024
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	Docket TC08-025

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	Docket TC08-026
In the Matter of the Petition of Santel Communications Cooperative, Inc. for Suspension or Modification of 47 U.S.C. Section 251(b)(2) of the Communications Act of 1934, as Amended	Docket TC08-027

P U B L I C

TESTIMONY OF RON WILLIAMS

I. INTRODUCTION

Q: PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Ron Williams. I am the Vice President – Interconnection for Alltel Communications, LLC. My business address is 3650 131st Avenue S.E., Suite 600, Bellevue, Washington 98006.

Q: ON WHOSE BEHALF ARE YOU TESTIFYING?

A. I am testifying on behalf of Alltel Communications, LLC (“Alltel”), and am addressing issues that have been raised in this case by Alltel and Verizon Wireless (VAW) LLC, CommNet Cellular License Holding LLC, Missouri Valley Cellular, Inc., Sanborn Cellular, Inc., and Eastern South Dakota Cellular, Inc. d/b/a Verizon Wireless (“Verizon Wireless”).

Q: PLEASE OUTLINE YOUR EDUCATIONAL BACKGROUND.

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

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

A: I have twenty years of experience in various aspects of the telecommunications industry. My telecom background includes ten years experience working for GTE, including six years in their LEC operations and business development, and four years in wireless operations. I also have four years experience in start-up CLEC operations with FairPoint Communications and with Western Wireless. Beginning in 1999, I worked for Western Wireless, first as the Director of CLEC operations and, since 2002, as a Director in Carrier Relations. Western Wireless was acquired by Alltel Communications in August 2005 and since that time I have worked in my present capacity dealing with interconnection, carrier relations, and E911 matters.

Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE SOUTH DAKOTA COMMISSION OR OTHER REGULATORY COMMISSIONS?

A: Yes, I have testified before the South Dakota Public Utilities Commission in an interconnection complaint case and in a case involving rural LEC requests to suspend local number portability implementation obligations. In addition, I have testified before other state commissions on interconnection matters and on the implementation of intermodal local number portability: Before the Michigan Public Service Commission, the Nebraska Public Service Commission, and the Oklahoma Corporation Commission in separate interconnection arbitrations. And, I have testified in Missouri, Nebraska, and New Mexico on number portability issues.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A: My testimony responds to the direct testimony filed by Petitioners by addressing that testimony in light of the standards that should apply in addressing Petitioners'

claims for suspension of obligations under the Telecommunications Act of 1996 ('Act'). I will identify the applicable standard, address the claims of the Petitioners, and present facts that demonstrate Petitioners do not meet the burden required for suspension of their transport obligations under the Act.

My testimony addresses these issues:

- What are the criteria for a suspension of obligations under the Act?
- What are the obligations of Petitioners with respect to transport of traffic to ported numbers?
- Have the Petitioners met a standard for suspension by demonstrating any true technical roadblocks to their implementation of transport to ported numbers?
- Have the Petitioners met a standard for suspension by demonstrating implementation of transport to ported numbers would be unduly economically burdensome?
- Have the Petitioners met a standard for suspension by demonstrating a significant adverse impact on users of telecommunications services generally?
- Are Petitioners claims that transport of traffic to ported numbers is not in the public interest valid?
- If the Commission does not deny the Petitions, how can the Commission efficiently implement LNP and avoid the possibility of the adverse impacts claimed by the RLECs?

II. WHAT WORK HAVE THE PARTIES DONE TO FACILITATE A SOLUTION TO THIS ISSUE?

Q: EARLY IN THIS CASE THE PARTIES ENTERED INTO AN AGREEMENT TO ALLOW THE RLECs AN EXTENSION OF THEIR LNP SUSPENSIONS FOR THE PURPOSE OF FACILITATING A SOLUTION TO THE TRANSPORT ISSUE RAISED IN THE PETITIONS. DID THE PARTIES MAKE PROGRESS?

A: Yes. The parties agreed to engage in arms' length negotiations with transit providers to evaluate and develop an efficient way to transport calls to ported numbers. The parties worked together with SDN to test the technical feasibility

of the RLECs delivering calls to ported numbers on the wireless providers' networks. Subsequent to proving the technical feasibility of such transport, SDN then provided a proposed transit rate for such service. In addition, the wireless carriers contacted Qwest and received a proposal from Qwest to operate as a transit carrier for such calls.

Q: WHAT DO THESE SOLUTIONS INVOLVE?

A: Each of the RLECs currently has connectivity with SDN and Qwest for access purposes, so no new trunk groups would need to be established for these purposes. However, to isolate the calls to ported numbers for study, three RLEC test companies dedicated a single DS0 trunk within an existing DS1 to SDN to be used for calls to ported out wireless numbers. At the same time, Alltel and Verizon Wireless established connectivity to SDN for purpose of accepting the calls to ported numbers during these tests. Once connectivity was established, test calls were made from the RLECs to the ported numbers, with SDN operating as the transit carrier. As was expected and as is the case in the rest of the nation the calls to ported numbers can be reached via a transit provider like SDN. This solution was easy to implement and efficient.

Q: WHAT IS THE COST OF UTILIZING THIS SOLUTION?

A: The RLECs are already connected to SDN and Qwest, therefore it is unlikely new facility costs would be incurred by the RLECs to interconnect to SDN, and the existing one-way trunks between the RLECs and Qwest would merely need to be converted to two-way trunks. The wireless carriers would incur the costs to connect to SDN in order to receive the calls to ported numbers but would incur no

new costs to receive traffic via Qwest. The transit provider will ask for a transit fee associated with the RLEC originated traffic.

Q: WHAT IS SDN'S TRANSIT RATE?

A: SDN has offered to provide this service at a rate of \$0.0035 per minute.

Q: WHAT IS THE QWEST TRANSIT RATE?

A: While we did not have detailed discussions with Qwest because the RLECs declined to participate in such discussions, attached as Exhibit RW-1 is an email received by Verizon Wireless' counsel that indicates Qwest would serve as the transit provider for such calls at a rate of \$0.0045 per minute. Qwest is charging Alltel in other instances only \$0.003123 per minute for transit service associated with Alltel originated traffic.

Q: ARE THERE ANY OTHER CONDITIONS OF THE QWEST PROPOSAL?

A: Qwest indicated that its proposal would also require the RLECs to pay Qwest for transiting RLEC originated EAS calls for which the RLECs are not currently compensating Qwest.

Q: WHAT HAS THIS PROCESS PROVEN?

A: This process demonstrated that it is technically feasible for the RLECs to send their originated traffic to ported numbers via a transit provider and that there are two providers that are willing and able to transit calls to ported out numbers from existing trunks for a low per-minute rate. While it has not resolved all of the issues in the case, it has demonstrated that transporting calls to ported numbers is technically simple and inexpensive.

Q: HAVE ALLTEL AND VERIZON WIRELESS INCORPORATED THE RESULTS OF THESE NEGOTIATIONS INTO THEIR PROPOSALS TO THIS COMMISSION?

A: Yes – while, as described below, we believe that the Commission should deny the Petitions outright as the Petitioners have not and can not meet the statutory burden to justify a suspension, if the Commission approves any suspension it should be limited to a suspension which requires (i) prompt implementation of LNP and (ii) transport of RLEC originated traffic by the RLECs at their expense to wireless carriers that are directly connected to the RLEC or if not directly connected to the RLEC then through a Qwest or SDN connection to the wireless carrier.

Q: HAVE THE RLECS REFLECTED THE TECHNICAL AND ECONOMIC FEASIBILITY OF THE USE OF A TRANSIT CARRIER IN THEIR TESTIMONY IN THIS PROCEEDING?

A: Not consistently and not accurately. Mr. Davis appears to recognize that the SDN solution could be utilized to deliver traffic to ported numbers. Exhibit 1 to his testimony identifies the cost of establishing common trunks to SDN as the transport cost that he considers to represent an undue economic burden. Mr. DeWitte and Mr. Rasmussen, on the other hand fail to acknowledge that the SDN or Qwest solutions are possible, and try to convince the Commission that transport is much more difficult and much more expensive than the above test and analysis has proven to be the case.

Q: HAS THE SAME SOLUTION AVAILABLE IN SOUTH DAKOTA BEEN IMPLEMENTED IN OTHER STATES TO SUCCESSFULLY DELIVER CALLS TO PORTED NUMBERS IN AN EFFICIENT MANNER?

A: Yes. In Minnesota the Commission recognized that a transit solution would be needed to allow the Minnesota RLECs to deliver calls to numbers ported between wireless carriers and to numbers ported from RLECs to wireless carriers. As reflected in the Minnesota Commission's order attached as Exhibit RW-2, Qwest and the RLECs agreed to reconfigure trunks so that Qwest could provide a transit

service on these calls, and interim rates were set at \$10 per month outside the Minneapolis-St. Paul metro area, and \$300 per month within the metro area. Exhibit RW-2, p. 5. The Commission determined that this could be operational within 60 days, and thus granted a very short suspension of the Minnesota RLECs' obligations to implement LNP. Exhibit RW-2, p. 4.

Q: DID THE MINNESOTA RLECS AND QWEST REACH A FINAL AGREEMENT REGARDING THIS TRANSIT SERVICE?

A: Yes. I have attached as Exhibit RW-3 the final agreement that was filed with the Minnesota Commission in that docket. The solution was implemented, and the Minnesota RLECs entered into an agreement to pay Qwest \$0.0027 per minute for transit, or in the alternative a charge of \$6.00 (six dollars) per month for de minimis traffic. Exhibit RW-3, Schedule A. This supports the belief we have had since the start of this case that the LNP transport issue raised by the RLECs is neither a difficult nor a costly problem to solve.

Q: ARE THERE ANY OTHER STATES YOU WOULD LIKE TO ADDRESS?

A: Iowa is a state – like South Dakota – that has a centralized equal access provider. Iowa Network Services (“INS”) performs a function much like SDN does in South Dakota. In Iowa, there are relatively few direct connections between wireless carriers and RLECs. INS performs the transit function for calls in these situations, and the originating carrier pays INS a transit rate. As a result the “transport issue” identified by the RLECs in this case has never been an issue in Iowa.

III. THE CRITERIA TO JUSTIFY A SUSPENSION OR MODIFICATION OF OBLIGATIONS ARE SPECIFIED IN THE ACT.

Q: WHAT ARE THE CRITERIA FOR THE COMMISSION TO GRANT PETITIONERS' REQUEST FOR A SUSPENSION OF MODIFICATION OF AN OBLIGATION UNDER THE ACT?

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

"... to the extent that, and for such duration as, the State commission determines that such a suspension or modification –

(A) is necessary;

(i) to avoid a significant adverse 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.¹

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

Q: AS CONGRESS DID NOT INTEND TO INSULATE RURAL TELEPHONE COMPANIES FROM COMPETITION, HOW SHOULD THIS COMMISSION DETERMINE WHETHER OR NOT TO SUSPEND THE PETITIONERS' LNP OBLIGATIONS AND REQUIREMENTS TO TRANSPORT TRAFFIC TO PORTED NUMBERS?

A: Each Petitioner bears the burden of demonstrating that it meets the statutory standard for a suspension of its LNP obligations. Although Section 251(f) of the Act provides that rural LECs may obtain a suspension of certain obligations, the

¹ 47 U.S.C. § 251(f)(2)

² *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*").

FCC has concluded that a suspension is only appropriate under unique and compelling circumstances:

Thus, we believe that, in order to justify continued exemption once a bona fide request has been made, or to justify suspension or modification of the Commission's section 251 requirements, a LEC must offer evidence that application of those requirements would be likely to cause undue economic burdens beyond the economic burdens typically associated with efficient competitive entry. State commissions will need to decide on a case-by-case basis whether such a showing has been made.³

Q: WHAT OTHER GUIDELINES ARE THERE ON APPLYING SUSPENSION OR MODIFICATION CRITERIA?

A: The Eighth Circuit previously ruled on what constitutes an "undue economic burden" in a rural LEC suspension case under Section 251(f) of the Act. In *Iowa Utilities Board*, the Court stated with respect to undue economic burden:

It is the full economic burden on the ILEC of meeting the request that must be assessed by the state commission. ... Instead, its [Congress'] chosen language looks to the whole of the economic burden the request imposes, not just a discrete part.⁴

Q: HAVE YOU REVIEWED THE PETITIONERS' ALLEGATIONS IN SUPPORT OF THEIR SUSPENSION OR MODIFICATION REQUESTS?

A: Yes. It is clear, as demonstrated by the Parties' tests of calls to ported numbers and the implementation of LNP throughout the States, that the Petitioners do not face technical infeasibility in implementing LNP or in transporting calls to ported numbers. Additionally, as I will demonstrate, LNP and even transport of their originated traffic to ported numbers is not an undue economic burden. Further, the impact on Petitioners' users will not be adverse and the impact on users in general will be positive.

³ *LNP First Report and Order* at 16118.

⁴ *Iowa Utilities Board, et al. v. Federal Communications Commission*, 219 F. 3d 744 at 761 (8th Cir. 2000), cert. granted on other grounds, 531 U.S. 1124, 121 S. Ct. 877 (2001).

IV. PETITIONERS ARE OBLIGATED TO IMPLEMENT LNP AND TRANSPORT TRAFFIC TO PORTED NUMBERS.

Q: WHAT IS YOUR UNDERSTANDING OF THE OBLIGATIONS FROM WHICH PETITIONERS WANT TO BE RELIEVED?

A: The Petitioners initially stated they were seeking to “suspend and modify the local number portability obligations in 47 U.S.C. §251(b)(2)” and “modification of intermodal LNP and LNP to VoIP providers such that it is not required to pay for the transport of calls beyond its local calling area.”⁵ In other words, the Petitioners are willing to implement LNP but want other carriers to pick up the cost of calls originated on Petitioners’ networks and delivered to wireless and VoIP carriers. As the Petitioners’ current suspension for the implementation of LNP expires August 8, 2008, and the Petitioners were all served with bona fide requests for the implementation of LNP in 2003 and 2004, it can be presumed they have prepared for compliance and should be nearing completion at this point in time.

Q: AS PETITIONERS ARE WILLING AND ABLE TO IMPLEMENT LNP (IF SOMEONE ELSE PAYS FOR TRANSPORT), WHAT IS THE REAL OBLIGATION THAT PETITIONERS ARE SEEKING TO SUSPEND OR MODIFY?

A: The Petitioners are actually seeking a suspension from long-standing “calling party’s network pays” obligations. The FCC concluded many years ago that it is the financial responsibility of an originating carrier to deliver its originating traffic to the network of a carrier terminating a call. In the Local Competition Order, the FCC stated:

We also reject CompTel’s argument that reading Section 251(c)(2) to refer only to the physical linking of networks implies that incumbent

⁵ See, for example, Venture Petition, TC08-011, Page 3.

LECs would not have a duty to route and terminate traffic. That duty applies to all LECs and is clearly expressed in Section 251(b)(5).⁶

Q: ARE THERE LIMITATIONS ON PETITIONERS' SHIFTING COSTS TO WIRELESS CARRIERS FOR RLEC ORIGINATED TRAFFIC?

A: Yes, FCC rule 47 C.F.R. § 51.703(b) provides:

A LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network.

"Telecommunications traffic" is defined as intraMTA traffic to or from a CMRS network⁷. The FCC's General Counsel stated the following:

Section 51.703(b) of the Commission's rules states that a LEC may not assess charges on any other telecommunications carrier, including a CMRS provider, for telecommunications traffic that originates on the LEC's network. See 47 C.F.R. §51.703(b). The Commission has construed this provision to mean that an incumbent LEC must bear the cost of delivering traffic (including the facilities over which the traffic is carrier) that it originates to the point of interconnection ("POI") selected by a competing carrier. At least two appellate courts have held that this rule applies in cases where an incumbent LEC delivers calls to a POI that is located outside of its customer's local calling area.⁸

Q: HAVE A RURAL LEC'S OBLIGATIONS CONCERNING TRAFFIC IT ORIGINATES AND DELIVERS TO COMPETITIVE CARRIERS BEEN ADDRESSED ELSEWHERE?

A: Yes, this obligation has been addressed by the FCC⁹, multiple state commissions¹⁰, as well as the 8th and 10th Circuit Courts¹¹.

⁶ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, FCC 96-325, ¶ 176 (1996) ("*Local Competition Order*").

⁷ 47 C.F.R. § 51.701(b)(2).

⁸ *Central Texas Telephone Cooperative, Inc., et al v. Federal Communications Commission*, Brief of Respondents, Case No. 03-1405, p. 35 (D.C. Cir. 2004) (citing, *Southwestern Bell Tel. Co. v. Public Utilities Commission of Texas*, 348 F. 3d 482, 486-87 (5th Cir. 2003); *MCImetro Access Transmission Services, Inc. v BellSouth Telecommunications, Inc.*, 352 F.3d 872, 878-79 (4th Cir. 2003).

⁹ *In the Matter of the Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation*

Q: HAVE ANY OF THE RURAL LECs THAT WERE DIRECTLY INVOLVED IN THOSE DECISIONS BEEN GRANTED SUSPENSIONS OF THEIR OBLIGATION TO TRANSPORT TRAFFIC TO PORTED NUMBERS?

A: I am not aware of any rural LECs directly involved with any of these decisions that have sought or been granted such a suspension.

Q: DO THE PETITIONERS' SUSPENSION REQUESTS CONFLICT WITH PETITIONERS' SEPARATE DIALING PARITY OBLIGATIONS?

A: Yes they do. Petitioners seek what appears to be a narrow suspension of their obligation to transport traffic to a number that has been ported from one of their switches. However, even if Petitioners' suspension is granted, Petitioners will still have to deliver calls that originate on their network that are destined for numbers ported between wireless carriers. Petitioner will either block all calls to a ported number or Petitioner will try to require the caller to dial the call as a toll call. Either of these actions will violate of Petitioners' dialing parity obligations. When the Commission issued its prior suspension orders it made clear that Petitioners were not relieved of the obligation to properly deliver calls to numbers ported between wireless carriers.¹² Rather than establish transit arrangements that

Commissions Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Expedited Arbitration, et al, FCC, CC Docket No. 00-218, et al, Released July 17, 2002, Para 52.

¹⁰ See California Docket U-1017-C, Florida Order No. PSC-06-0776-FOF-TP in Dockets 05-119-TP and 05-125-TP, Georgia Docket 16772-U, Iowa Docket ARB-05-2 et al, Illinois Docket 05-0402.

¹¹ . *WWC License, L.L.C. v. Boyle*, 459 F.3d 880 (8th Cir. 2006) (requiring rural LEC to bear costs of delivering calls to indirectly-interconnected wireless carrier); *Atlas Tel. Co. v. Okla. Corp. Comm'n*, 400 F.3d 1256, 1266 (10th Cir. 2005) (“[T]he RTCs’ argument that CMRS providers must bear the expense of transporting RTC-originated traffic on the SWBT network must fail.”).

¹² See, e.g., Final Decision and Order in Docket TC04-046, p. 14 (Sep. 30, 2004) (“ORDERED that the suspension granted herein does not relieve Armour et al. of their obligation to properly route calls to numbers ported between other carriers, including wireless carriers.”).

would allow the RLECs to meet this obligation, it appears that the RLECs either i) simply violate dialing parity obligations¹³, or ii) deliver calls to a wireless carrier and hope that the wireless carrier would perform the LNP query and deliver the call to the proper party at the wireless carrier's expense¹⁴.

Q: HAS THE FCC CONFIRMED THAT TRANSPORT COSTS ASSOCIATED WITH DELIVERING TRAFFIC TO A TERMINATING CARRIER IS NOT AN LNP ISSUE?

A: Yes. When the FCC conducted its regulatory flexibility analysis with regard to intermodal LNP, many RLECs asked the FCC to classify the cost of transporting calls off the RLEC network as an LNP cost. The FCC declined, finding:

[T]he issue of transport costs associated with calls to ported numbers is outside the scope of this proceeding and not relevant to that application of the LNP obligations under the Act.¹⁵

In fact, the FCC specifically addressed the claims made by the Petitioners in this case that transport costs are costs that can be considered costs of implementing LNP:

For example, some commenters cite their estimated costs associated with transporting calls to ported numbers.¹⁴ However, as discussed above, the Commission previously declined to consider these as LNP-related costs, rather than costs of interconnection more generally, and the commenters here do not demonstrate that the Commission should reverse that conclusion.

¹⁴The South Dakota Telecommunications Association for example, indicated that its member companies estimated transport costs to range from \$0.20 to \$30 per line per month....

Q: HOW DO THE PETITIONS IN THIS CASE SQUARE WITH THIS FCC ORDER?

¹³ See, e.g., Petition in Docket TC08-027, ¶¶ 9-10.

¹⁴ See, e.g., Petition in Docket TC08-024, ¶ 10.

¹⁵ In the *Matter of Telephone Number Requirements for IP-Enabled Services Providers*, FCC 07-188, Appendix D, ¶ 4 (Nov. 8, 2007).

A: The Petitions are utterly inconsistent with this FCC Order – instead of respecting the ruling of the FCC, the Petitioners are asking this Commission to overrule the FCC’s decision on this point – something that we do not believe the Commission has the authority to do.

V. THE PETITIONERS HAVE NOT MET THE STANDARD FOR SUSPENSION BY DEMONSTRATING ANY TRUE TECHNICAL ROADBLOCKS TO THEIR IMPLEMENTATION OF TRANSPORT TO PORTED NUMBERS.

Q: ONE OF THE CRITERIA FOR GRANTING A SUSPENSION OF OBLIGATIONS UNDER THE ACT IS A DEMONSTRATION OF TECHNICAL INFEASIBILITY; HAVE THE PETITIONERS EVEN ATTEMPTED TO DEMONSTRATE IMPLEMENTATION IS INFEASIBLE?

A: No they have not. First of all, the Petitioners do not claim that LNP cannot be implemented. In fact, several companies clearly state that they are capable of porting numbers today. For example, Vivian’s Petition states:

Since the Commission’s Order in TC04-045, all of Vivian’s switches are LNP capable.¹⁶

In addition, the Petitioners entered into a Stipulation with the intervening CLECs that confirmed that the Petitioners were not seeking to avoid implementation of porting in general. The stipulation reads:

The Petitioners agree to amend their Petitions by adding the following language: "By this Petition, the Petitioner is not requesting a suspension or modification of local number portability between telecommunications companies certificated by the commission to provide local exchange service."¹⁷

Q: WHAT DOES THIS MEAN?

¹⁶ TC08-015, Vivian Petition, ¶ 6.

¹⁷ See Stipulation filed in each of the above cases on July 17, 2008, ¶ 1.

A: Porting will be implemented by the RLECs whether or not their Petitions are granted. There are no technical impediments to porting to be considered, and the only issue raised by the RLECs is the cost of transport.

Q: HAVE ANY OF THE RLEC WITNESSES OFFERED ANY TESTIMONY CLAIMING THAT NUMBER PORTING PROCESS PRESENTS TECHNICAL IMPEDIMENTS?

A: Petitioners have not offered any demonstration that transport of ported number traffic is infeasible. In fact, as noted above, Golden West, McCook, and Beresford participated in a test to validate that tandem routing of Petitioner originated traffic destined for numbers ported to wireless carriers is feasible. These tests were conducted within the last 60 days and validate that tandem routing to ported numbers is feasible. This validation is consistent with industry practices that have been in place since LNP was first implemented in 1996-97.

VI. PETITIONERS HAVE NOT MET THE STANDARD FOR SUSPENSION BY DEMONSTRATING IMPLEMENTATION OF TRANSPORT TO PORTED NUMBERS WOULD BE UNDULY ECONOMICALLY BURDENSOME.

Q: WHAT IS THE STANDARD FOR ESTABLISHING AN “UNDUE ECONOMIC BURDEN”?

A: Section 251(f)(2) permits the Commission to suspend a LEC’s LNP obligation if such action is “necessary to avoid imposing a requirement that is unduly economically burdensome.” The Ohio Commission held that the statutory phrase, “unduly economically burdensome,” means economic burdens “beyond the economic burdens typically associated with efficient competitive entry.” The 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.”

Q: DO THE LNP TRANSPORT COST PROJECTIONS CONTAINED IN THE TESTIMONY OF JOHN DE WITTE REPRESENT A REASONABLE APPROXIMATION OF THE COSTS OF TRANSPORT?

A: No, the cost projections made by Mr. De Witte on behalf of his client Petitioners grossly overstate the costs of transporting traffic to ported numbers. Both non-recurring 'start-up' and monthly recurring costs have been over estimated by Mr. De Witte; in all cases producing costs many times more than a realistic projection.

Q: DO THE LNP TRANSPORT COST PROJECTIONS CONTAINED IN THE TESTIMONY OF DAN DAVIS REPRESENT A REASONABLE APPROXIMATION OF THE COSTS OF TRANSPORT?

A: No. Although Mr. Davis proposes transport costs that are substantially less than those projected by Mr. De Witte for the same functionality, Mr. Davis' costs are still overstated in comparison to realistic cost efficient transport solutions.

Q: HAVE THE PETITIONERS INCLUDED COSTS AND COST TESTIMONY THAT IS IRRELEVANT TO THE TRANSPORT SUSPENSION SOUGHT IN THE PETITIONS?

A: Yes. Petitioners included substantial non-recurring costs associated with the implementation of local number portability functionality. Some of the Petitioners admit they have already incurred such and are ready to implement and all have agreed to implement LNP per their stipulation with wire line competitors. Therefore regardless of the suspension it still seeks these costs will be incurred. Therefore, they are irrelevant to further suspension. The only investments and recurring costs remaining in their analysis are those directly related to fulfilling Petitioners' transport obligations associated with ported number traffic.

Q: PLEASE IDENTIFY THE COSTS THAT ARE IRRELEVANT BECAUSE PETITIONERS WILL INCUR THOSE REGARDLESS OF ANY SUSPENSION IT MIGHT BE GRANTED.

A: Mr. De Witte's Exhibit 1 identifies "Switch-Related Investment Costs" and "NPAC-Related Costs" that would have to be expended to implement LNP for

local exchange carriers pursuant to the July 17 Stipulation. Those costs clearly cannot be considered. The “Technical/Administrative Costs” listed on the lower half of Exhibit 1 are not transport costs, and are admittedly beyond the scope of the Petitions¹⁸.

Like Mr. De Witte, Mr. Davis Includes “LNP Non-recurring Costs” that would have to be expended to implement LNP for local exchange carriers pursuant to the July 17 Stipulation. The costs labeled “LNP Monthly Recurring Costs” will therefore be incurred regardless of any suspension and are therefore irrelevant.

Q: ARE TRANSPORT COSTS OVERSTATED IN MR. DE WITTE’S TESTIMONY AND IF SO PLEASE EXPLAIN.

A: There are multiple cost inputs that are overstated by Mr. De Witte. For each Petitioner, Mr. De Witte has

- identified the most inefficient means of routing traffic to ported numbers as the basis for claims of start-up and recurring costs, and
- added unnecessary leased circuit capacity and associated expense, and
- included routing costs for traffic that is not to ported numbers, and
- utilized inappropriate traffic sensitive costs.

In addition, Mr. De Witte included an alternative estimate of the cost of routing calls to ported numbers. The second alternative is a more outrageous proposal in terms of its assumptions:

- Disconnection of all existing direct circuits between Petitioners and wireless carriers, and
- Replacing all existing circuits at a new point of interconnection in Sioux Falls, and

¹⁸ Exhibit RW-13, Response to Verizon Wireless IR 42 (“These costs were not included in the Petitions.”).

- Including the costs of transporting substantial amounts of non-ported number traffic to wireless carriers.

The combined effect of these assumptions, overstatements of traffic, and inappropriate costs amount to a substantial misrepresentation of the financial impact of Petitioners' transport obligations. I have provided an example diagram of Mr. De Witte's transport 'Option 1' as Exhibit RW-4. Mr. De Witte's proposed transport 'Option 2' involves, among other things, the tear-down and replacement of all existing direct connections and, as such is extreme, inconsistent with existing agreements, and inclusive of traffic that is unrelated to Petitioners' suspensions requests.

Q: WHAT IS THE MAGNITUDE OF DE WITTE'S OVERSTATEMENT OF COSTS?

A: The approach taken by Mr. De Witte produces costs that may be as high as 70 times the cost that an efficient operator would incur to accomplish their routing obligations for similar traffic. For example, the SDN solution described above would use a single DS0 out of an existing DS1 to deliver ported traffic through SDN to the Wireless Carrier.¹⁹ For West River Cooperative Telephone, the monthly cost of doing this for years 1 and 5 would be as follows:

	Year 1 – one ported number	
	Non-Recurring	Recurring
Cost of 1 DS0	\$0	\$140.54 ²⁰
Transport		\$ 1.60 ²¹

¹⁹ It appears to me that most RLECs could use a single DS0 to carry calls to ported wireless numbers. In fact, Verizon Wireless asked 16 of the RLECs to admit that such anticipated traffic would not exceed the operating capacity of a DS0. The RLECs refused to answer, which I consider to be an admission. Exhibit RW-12, Response to Verizon Wireless IR 43.

²⁰ This is 1/24th of the SDN Lease Rate for a DS1.

TOTAL PER MONTH PER LINE: \$ 0.039²²

	Year 5 – five ported numbers	
	Non-Recurring	Recurring
Cost of 1 DS0	\$0	\$140.54
Transport		\$ 7.98
TOTAL PER MONTH PER LINE:		\$ 0.04

Mr. De Witte, however, ignores the SDN solution and assumes the installation of 3 new T1 circuits at a cost of over \$10,000 per month to route this minimal amount of traffic. Mr. De Witte estimates that this would cost West River

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Q: DOES IT APPEAR THAT MR. DE WITTE IGNORED THE SDN TRANSIT ROUTING ALTERNATIVE THAT WAS DESCRIBED IN MR. DAVIS' TESTIMONY?

A: Yes. Mr. Davis proposed a transport method that is significantly more efficient than either of the options proposed by Mr. De Witte. In fact, Mr. Davis' proposed method was the method that I described earlier that was the subject of the trial conducted on behalf of Petitioners to validate tandem routing and so was known to all Petitioners.

Q: PLEASE IDENTIFY HOW COSTS ARE OVERSTATED IN MR. DAVIS' TESTIMONY.

A: The primary driver for the overstatement of ported number transport costs in Mr. Davis' testimony is that he assumed that dedicated trunks must be established

²¹ This is the number of minutes as assumed by Mr. De Witte times the SDN proposed transit rate.

²² This is calculated by dividing total monthly costs by West River's total access lines.

between Petitioner host switches and a tandem to transport traffic to ported numbers. This assumption adds unnecessary non-recurring costs to establish the dedicated trunks as well as unnecessary monthly recurring costs to lease dedicated trunks. I have provided an example diagram of Mr. Davis' transport as Exhibit RW-5.

Q: WHY DO YOU CONSIDER DEDICATED TRUNKS TO BE UNNECESSARY FOR THE TRANSPORT OF PORTED NUMBER TRAFFIC?

A: Shared/common trunks already exist for all Petitioners to route ported number traffic via an indirect tandem routing method. For the volume of traffic petitioners are forecasting, using common multi-member trunk groups that are already carrying traffic on the same tandem route will not require any incremental trunk investment. In some cases direct interconnection trunks exist for Petitioners to deliver traffic to the terminating carrier.

Q: WHAT PER-LINE COSTS DOES MR. DAVIS CALCULATE?

A: Mr. Davis has not done the math in his exhibits, presumably because the numbers are actually quite low. For example, his total annual transport cost for Alliance (Exhibit 1 to his testimony) amounts to only ****CONFIDENTIAL BEGINS**
CONFIDENTIAL ENDS** per line per month when you divide the total monthly circuit cost by Alliance's access lines.

Q: IS THIS SMALL NUMBER STILL OVERSTATED?

A: Yes. That number should be divided by 24 to represent the cost of using a single DS0. When SDN transit charges are factored in (a cost Mr. Davis does not address), the total cost would still be well under \$0.01 per line per month.

Q: HAVE YOU PREPARED ALTERNATIVE COST ESTIMATES FOR PETITIONERS TO TRANSPORT TRAFFIC TO PORTED NUMBERS?

A: Yes I have. I have attached Exhibit RW-6 which reflects an estimated cost for Petitioners to transport traffic to the quantity of ported numbers assumed by Petitioners using the SDN tandem. Exhibit RW-7 is an estimate of cost assuming Petitioners that have direct connections with wireless carriers use those direct connects to transport traffic to ported numbers²³. For all Petitioners I estimated costs using Petitioner ported number traffic volume estimates pursuant to their testimony in this docket or, if no estimate was made, I used Petitioner port estimates from the 2004 LNP Suspension Dockets²⁴.

Q: HAVE YOU COMPARED YOUR COST ESTIMATES TO THOSE MADE BY PETITIONER WITNESSES DE WITTE AND DAVIS?

A: Yes. Exhibit RW-10 shows, for each Petitioner, the estimated cost claimed to be incurred using De Witte Option 1, and Mr. Davis' method. Exhibit RW-11 is a summary of the differences in impact and approach comparing Alltel's most efficient implementation with those scenarios taken by Petitioners' witnesses De Witte and Davis.

Q: HAVE YOU COMPARED THE COST ESTIMATES TO THE PETITIONERS' CAPABILITY TO MANAGE THOSE COSTS AS PART OF THEIR ONGOING OPERATIONS?

A: I intended to provide a comparison of Petitioners' cost claims to some basic financial indicators (e.g., profit, revenues, free cash flow, dividends, etc.) to

²³ Confidential Exhibit RW-8 includes the calculations that are represented in Exhibit RW-7 and Exhibit RW-9 is an example of the transport Alltel would assume to be efficient implementation by Petitioners for transporting traffic to ported numbers.

²⁴ In the Matter of the Petitioners for Suspension or Modification of §251(b)(2) of the Communications Act of 1934 as amended, South Dakota PSC 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, TC04-085

determine what I believe to be the relative insignificance of Petitioner cost to transport traffic to ported numbers. Unfortunately, Petitioners have refused to provide such data. In the event that satisfactory discovery responses are ultimately received from Petitioners, I reserve the right to supplement my testimony to reflect these basic benchmark financial impact comparisons. Without a comparison to the overall financial wherewithal of a Petitioner, I do not believe it is possible to find a Petitioner unduly burdened given the small costs involved in the transport of traffic to ported numbers.

Q: DO YOU BELIEVE THE COST TO ANY PETITIONER OF TRANSPORTING TRAFFIC TO PORTED NUMBERS WILL BE AN UNDUE ECONOMIC BURDEN?

A: No I do not. The absolute financial impact as measured against each Petitioners' overall financial condition is minor and very manageable. The relative financial impact based on Petitioner estimates of traffic to ported numbers is actually less than that experienced by most local exchange carriers and competitive carriers. So, Petitioners are not unduly burdened as to their own wherewithal or as compared to their competitors.

VII. THE PETITIONERS HAVE NOT DEMONSTRATED A SIGNIFICANT ADVERSE IMPACT ON USERS OF TELECOMMUNICATIONS SERVICES GENERALLY.

Q: WHAT IS THE ADVERSE IMPACT THAT PETITIONERS ARE CLAIMING WILL OCCUR TO USERS OF TELECOMMUNICATION SERVICES?

A: Petitioners are claiming that users will incur two adverse impacts: (i) A potential financial impact that assumes transport costs to ported numbers will be passed through to Petitioner end users; and (ii) potential for end user confusion as a result of having to dial ten instead of seven digits to make local calls.

Q: HAVE ANY OF THE PETITIONERS INDICATED THEY WILL PASS THROUGH TRANSPORT COSTS TO THEIR END USERS THROUGH HIGHER LOCAL RATES OR SURCHARGES?

A: No. None of the Petitioners has asserted that they can or will pass through ported number transport charges to their customers in the form of higher rates or surcharges. Nor can any of the Petitioners demonstrate such an amount of costs that would be an undue expense to end users nor have they shown what level if any of end user charges would be economically harmful to end users.²⁵

Q: HAVE ANY OF THE PETITIONERS PROVIDED EVIDENCE THAT THEIR USERS ARE UNIQUE AND UNABLE TO DEAL WITH A CONVERSION FROM 7 TO 10 DIGIT DIALING?

A: No Petitioner has provided any evidence whatsoever that their customer base is unique in having the inability to convert to ten digit local dialing.

Q: HAVE THE PETITIONERS PROVIDED ANY INFORMATION AS TO WHY USERS INVOLVED IN THIS CASE WOULD REALIZE AN IMPACT MORE SIGNIFICANT THAN THAT REALIZED BY USERS WHOSE CARRIERS ARE PERFORMING THEIR OBLIGATIONS UNDER THE ACT?

A: No such information has not been provided. As indicated earlier, LNP has been implemented successfully and without adverse impact to end users throughout the country.

Q: ARE THERE ADVERSE IMPACTS ON USERS IF PETITIONER SUSPENSION IS GRANTED?

A: Yes. There will be significant adverse impacts on users if Petitioner suspensions are granted. If Petitioners are not required to transport calls to ported numbers then Petitioner customer calls to those numbers will likely be blocked and/or sent

²⁵ Interestingly, however, Mr. De Witte's Exhibit 1 includes a significant "Marketing/Informational Flyer" cost that represents the cost of a "bill stuffer or other marketing communication" to explain the LNP surcharge should such a fee be assessed. See Exhibit RW-13, Response to Verizon Wireless IR 42.

to a recorded message. Alternatively, Petitioner customers will be forced to dial toll calls to reach ported numbers and, likely, incur toll charges.²⁶ Additionally, calling customers will experience confusion and frustration because some calls to numbers within an NPANXX will continue to be dialed locally while other calls to numbers within that same NPANXX would require toll calling. The caller will not know which dialing method to use to reach a particular telephone number (at least on the initial call to that number).

VIII. PETITIONERS' CLAIMS THAT TRANSPORT OF TRAFFIC TO PORTED NUMBERS IS NOT IN THE PUBLIC INTEREST, ARE NOT VALID.

Q: HOW IS THE PUBLIC INTEREST STANDARD APPLIED IN SUSPENSION REQUESTS SUCH AS THIS?

A: The public interest standard is only applied when a Petitioner has met one (or more) of standards set forth in Section 251(f)(2)(A) of the Act. In my opinion, no Petitioner has met that standard.

Q: HAVE PETITIONERS PROVIDED A COMPLETE PERSPECTIVE OF PUBLIC INTEREST?

A: No. Petitioners have failed to identify some very implications if Petitioners' suspension was granted. As noted above, a suspension of transport obligations to deliver traffic to ported numbers will result in corruption of consumer dialing parity expectations. Inconsistent application of dialing parity will result in confused customers and will result in consumers being billed toll charges to reach local telephone numbers. Further, Petitioner customers interested in porting their numbers will face a higher decision threshold to port since they would likely face

²⁶ This implies a violation of local dialing parity obligations. As discussed above, local dialing parity obligations are not subject to suspension under Section 252(f)(2).

adverse impacts to callers attempting to reach their ported number. This is clearly anti-competitive.

Q: ARE THERE OTHER ADVERSE IMPACTS RELATED TO CONSUMERS NOT SERVED BY PETITIONERS?

A: Yes. Wireless consumers will be impacted as Type 1 numbers are ported to wireless switches. Currently, local Petitioner traffic to Type 1 numbers is delivered as local traffic. If Petitioners' suspension requests are granted, Petitioners would not be required to treat these calls the same. Consumers who port their wireless phone number from one wireless carrier to another may also be impacted by Petitioners' requested suspension if a new (porting-in) carrier is not connected to the Petitioner in the same manner as the porting-out carrier. Finally, if RLEC suspension is granted, RLEC will have shifted some or all of its transport costs (as the calling party's network) to the carrier terminating a ported number call.

IX. CONCLUSION

Q: HAVE THE PETITIONERS MET THEIR BURDEN OF PROOF TO BE GRANTED A SUSPENSION OF TRANSPORT OBLIGATIONS UNDER SECTION 252(f)(2)?

A: No they have not. Transport of traffic to ported numbers is technically feasible, the cost of transport of Petitioner originated traffic to ported numbers is not unduly burdensome, the impact on users for Petitioner to transport traffic to ported numbers is not significantly adverse, and granting a suspension of Petitioners' obligation is likely to create more adversity for telecommunications users than denying a suspension.

Q: WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?

A: Deny each Petition and order the Petitioners' to transport traffic in accordance with all existing interconnection agreements, the Act, and FCC rules. If the Commission does not deny the Petitions in full it should implement LNP, and grant a limited suspension as I described above by:

- directing that the RLECs deliver calls to ported numbers either over existing direct connections or via the SDN or Qwest tandem switch;
- modifying the RLECs' LNP obligations to the extent necessary to require the RLECs to implement intermodal porting only with those carriers connected to Qwest or SDN;
- requiring each RLEC and each wireless carrier to pay the costs of the facilities necessary to connect to SDN or Qwest;
- requiring the originating RLEC to pay SDN's or Qwest's per-minute transit cost with respect to the RLEC originated traffic.

Q: DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A: Yes it does.