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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Telephone Number Portability

CC Docket No. 95-116

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COMMENTS OF JONES INTERCABLE, INC.

1. Introduction

Jones Intercable, Inc. ("Jones") provides cable television service in a large number of communities across the United States. As technological and regulatory changes continue to occur in the communications field, Jones is considering whether it can reasonably plan to enter any aspect of the local exchange telephone business. The Commission has indicated that such entry is in the public interest.<sup>1</sup> As at least a potential entrant, Jones has a significant interest in issues, such as number portability, that affect the terms under which it might be able to compete with the existing local exchange carrier ("LEC") in one or more local markets.

Jones is still in the process of assessing the numerous business, technical and regulatory issues that will confront any entity considering whether to try to compete with existing LECs. In these circumstances, Jones has not attempted to analyze in detail the pros and cons of the specific technologies for implementing number portability discussed in the Notice. See Notice at ¶¶ 35-54. Nonetheless, Jones has tried to

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<sup>1</sup> In the Matter of Telephone Number Portability, *Notice of Proposed Rulemaking*, CC Docket No. 95-116, FCC 95-284 (released July 13, 1995) ("Notice") at ¶¶ 4, 19, 21-24.

provide, for the Commission's consideration, the views of a potential new entrant, and respectfully requests that the Commission consider Jones's comments in that light.<sup>2</sup>

## **2. The Commission Should Take A Leading Role In Promoting Number Portability.**

In Jones's view, the Commission should take a leading role in establishing and enforcing a clear and unambiguous national policy requiring service provider portability. *See* Notice at ¶¶ 28-34. As the customer surveys discussed in the Notice (at ¶ 22) show, both residential and business customers place a high value on being able to keep their existing telephone numbers. Without full-featured number portability, the only way a customer can do that is to stick with the incumbent LEC. Number portability, therefore, is clearly essential to meaningful competition in the local exchange business.<sup>3</sup>

Jones believes that the only way that number portability will become available to new entrants in a reasonable time frame is if the Commission creates a clear obligation on the part of the incumbent LECs to take the steps necessary to make number portability a reality. The reason is simple. The point of establishing number portability is to allow consumers to choose among competing providers of local exchange services, a result plainly in the public interest. Incumbent LECs, however, control essentially all of the local exchange market within their respective service territories, and have no conceivable economic motivation to facilitate this result. To the

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<sup>2</sup> Jones agrees with the Commission that substantial public benefits would result from a system in which telephone numbers were portable across providers, services, and locations. *See* Notice at ¶¶ 5, 13. In light of Jones's present position (looking in on the local exchange market from the outside), however, Jones's most immediate concerns relate to service provider portability, and the following comments are generally limited to that issue.

<sup>3</sup> The claim by some LECs that they experience substantial telephone number "churn" is essentially irrelevant to this problem. *See* Notice at ¶ 22 n.27. There is no reason to limit competition to those customers who might be changing their telephone numbers for independent reasons. Of course, it would also be totally impractical to try to identify such customers and make them available for marketing efforts to both the incumbent LEC and any new entrants in a fair and timely manner.

contrary, their private economic interest is served by delaying the onset of competition for as long as possible.<sup>4</sup> Outside intervention is required to overcome this strong economic motivation.

This Commission has a history of promoting the development of competition, even when doing so was contrary to the private interests of monopoly providers of telecommunications services. This Commission, therefore, is ideally suited to take the lead on developing and enforcing a pro-competitive national number portability policy.<sup>5</sup> Moreover, while a number of state regulatory bodies recognize that the public will benefit from the promotion of local exchange competition, and have taken steps to further that goal, there is far from universal acceptance of the view that local exchange competition is a good thing. And, even state regulators who favor competition as a general matter may in some cases lack the technical expertise to wade through the various rationales that may be offered for deferring any obligation on the part of the incumbent LECs to make number portability a reality.

In these circumstances, Jones suggests that the Commission propose specific rules mandating that a permanent form of service provider portability be implemented on a defined and prompt schedule. Comments would be received on the specific proposed rules, which would then (with any necessary modifications) be adopted.<sup>6</sup>

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<sup>4</sup> Cf. Notice at ¶ 59 ("Moreover, the incumbent LEC has little incentive to provide efficient routing services to [its] competitors.")

<sup>5</sup> Jones agrees with the Commission (Notice at ¶¶ 29-32) that there is a significant national interest in the deployment of a uniform system of number portability across the country. In addition to the factors favoring a uniform national approach articulated by the Commission, Jones would add that, from the perspective of a potential new entrant with operations across the country (Jones operates in states including Maryland, Virginia, Georgia, Florida, Missouri, Illinois, Colorado, New Mexico and California), it would be highly preferable to know that a single resolution to this problem was applicable everywhere.

<sup>6</sup> The precise schedule should be based on the particular technical solution the Commission proposes, as well as experience with analogous processes, such as the implementation of 800 database services.

**3. The Commission Should Immediately Mandate The Availability Of Interim Number Portability.**

The Commission has succinctly described the serious problems with the various forms of "interim" number portability that are currently available, principally Remote Call Forwarding and Flexible Direct Inward Dialing. Aside from producing call routing inefficiencies (calls to be completed by one firm are first routed to another for number translation or re-routing), these interim measures also effectively prevent the firm obtaining the "forwarded" call from offering CLASS-based services, and may lead to degradations of transmission quality as well. *See* Notice at ¶¶ 57-62.

Even so, the Commission should not let the best be the enemy of the good. To use an example from the long distance market, MCI, Sprint and other "Other Common Carriers" rightly and repeatedly objected to the inferior access service represented by "Feature Group A" in non-equal access end offices. The public interest, however, was clearly served by the availability of Feature Group A access for non-AT&T long distance companies if the alternative was no access at all until Feature Group D was available. Similarly, while using NXX codes to allocate "800" calls among competing long distance carriers was inferior to the present system of 10-digit screening, it was superior to no screening — and no competition — at all.

Here, the Commission should at the earliest possible opportunity adopt a requirement that all incumbent local exchange carriers make all technically feasible forms of interim number portability available to any entity seeking to provide local exchange access. While the public benefits from competition based on interim number portability are not likely to be as great as the benefits from competition based on true, permanent number portability arrangements, competition based on interim number portability is better than no competition at all.

Without such a requirement, the strong, if not overwhelming, incentives on incumbent LECs to delay the onset of meaningful competition will likely have full

sway until a permanent solution is mandated. In practical terms, therefore, unless there is a clear requirement to provide interim number portability without unreasonable delays, there is a very real prospect that, except in rare cases, number portability in any form will be available only after extended negotiations and/or regulatory proceedings regarding technical interconnection arrangements, as well as the pricing plan applicable to such arrangements.

From Jones's perspective, while there are legitimate technical and economic issues that contribute to the complexity of determining a permanent solution to the number portability problem, none of these issues should provide a basis for delay in making interim number portability available. Flexible DID arrangements, for example, make it possible for customers that have been won from the incumbent LEC to continue to receive calls by means of one or more trunks running from the LEC's network directly to the new entrant's switch. *See* Notice at ¶ 60. These arrangements are well within the technical capabilities of all major incumbent LECs and any credible new entrant as well.

As to economic issues, at least initially, the Commission should require that interim number portability be made available on a "bill and keep" basis. That is, incumbent LECs would not charge new entrants for interim number portability arrangements for customers switching to the new entrant, and neither would new entrants charge the incumbent LECs for allowing a customer that originally had his or her number assigned by the new entrant to continue to receive calls on that number if the customer later switched to the incumbent LEC. The costs of such arrangements are likely to be small, and the public benefits of allowing competition to get underway without unreasonably burdening new entrants with recurring costs are likely to be large.<sup>7</sup>

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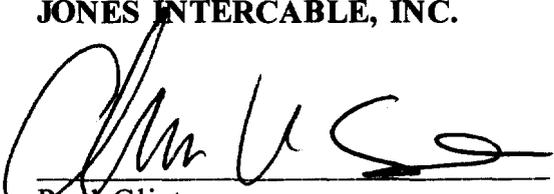
<sup>7</sup> *Cf. Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service*, R.95-04-043 (Cal. P.U.C., July 24, 1995) (adopting "bill and keep" as interim charging mechanism for interconnection between incumbent LECs and new entrants). At an absolute maximum, the charge for interim number portability arrangements should not exceed the incumbent LEC's incremental cost of providing the arrangement.

#### 4. Conclusion

If competition for incumbent local exchange carriers is ever to develop on a widespread basis, new entrants must be able to offer services that do not require customers to change their telephone numbers. Jones believes that the Commission is uniquely positioned to take the leading role in establishing requirements for both interim and permanent number portability. Interim portability arrangements in particular should be required of all incumbent local exchange carriers at the earliest possible opportunity. Establishing such a requirement would send a clear signal to existing LECs, potential new entrants, and consumers that the Commission is dedicated to encouraging local exchange competition. That message in itself would go a long way towards hastening the day when such competition is a reality.

Respectfully submitted,

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