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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
Policies)	

REPLY COMMENTS

MCI TELECOMMUNICATIONS CORPORATION

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SUMMARY

MCI Telecommunications Corporation and MCIMetro (collectively MCI) respectfully submit these reply comments in response to the Further Notice of Proposed Rulemaking (FNPRM) in the captioned docket. MCI supports the comments of parties recommending allocation of the majority of shared LNP costs to each porting local carrier based on those carriers' relative number of active telephone lines, rather than allocated based on carrier gross revenues; and allocation of carrier internal network implementation costs to all telecommunications carriers incurring such costs. While MCI strongly urges the Commission to adopt rules that reflect these cost-causative recovery principles, MCI opposes parties' suggestions that the Commission establish national LNP cost recovery mechanisms, such as a pool to recover shared costs, and instead recommends that recovery of LNP costs from end users be managed by states in accordance with principles established by the Commission. In addition to opposing the establishment of pooling mechanisms for allocation of shared or direct LNP implementation costs, MCI opposes imposition of mandatory surcharges for recovery of shared costs.

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MCI Telecommunications Corporation and MCIMetro (collectively MCI) respectfully submit these reply comments in response to the Further Notice of Proposed Rulemaking (FNPRM) in the captioned docket. MCI supports the comments of parties recommending allocation of the majority of shared local number portability (LNP) costs to each porting local carrier based on those carriers' relative number of active telephone lines, rather than allocated based on carrier gross revenues; and allocation of carrier internal network implementation costs to all telecommunications carriers incurring such costs. While MCI strongly urges the Commission to adopt rules that reflect these cost-causative recovery principles, MCI opposes parties' suggestions that the Commission establish national LNP cost recovery mechanisms, such as a pool to recover shared costs, and instead recommends that recovery of LNP costs from end users be managed by states in accordance with principles established by the Commission. In addition to opposing the establishment of pooling mechanisms for allocation of shared or direct LNP implementation costs, MCI opposes imposition of mandatory surcharges for recovery of shared costs.

I. The Commission Should Reject the Incumbent LECs' Proposals for LNP Cost Allocation, and Implement the Statutory Mandate to Recover LNP Costs on a Competitively Neutral Basis

There is no question that the 1996 Act requires that the costs of number portability be supported by all telecommunications providers on a competitively neutral basis.¹ However, a key difference among commenters arises over their interpretation of the statutory language "all telecommunications carriers". The incumbent local exchange carriers (ILECs) generally would apply the mandate to recover LNP costs from "all telecommunications carriers" as an excuse to force recovery of a substantial proportion of their LNP implementation costs on long distance carriers and other providers of non-local exchange services whose users do not benefit from LNP. It is this fundamentally incorrect interpretation of the statute that is the cornerstone for most of their complex and competitively *un-neutral* cost allocation and recovery schemes.

For example, Bell Atlantic (at 3-4) supports pooling and recovery of only ILEC shared and direct LNP costs -- even though interexchange carriers (IXCs) and other network services providers will also incur substantial costs to accommodate LNP routing in their networks -- while simultaneously advocating allocation of those ILEC-only costs to all telecommunications carriers. Moreover, Bell Atlantic

¹ 47 U.S.C. Sec. 251(e)(2) (1996).

(at 5) and NYNEX at 8-9) recommend an allocation scheme based on gross *retail* revenues, meaning that ILEC revenues, for the purpose of determining their portion of the LNP assessment, would be reduced by the billions of dollars they receive in access payments from IXCs, CMRS providers, etc. Thus, in Bell Atlantic's model, IXCs would incur their own portion of shared and direct LNP costs, plus subsidize a substantial portion of Bell Atlantic's costs.

Other ILEC proposals would similarly and inappropriately result in a large portion of LNP costs being paid by long distance and other non-local service customers. Pacific Telesis Group ("Pacific") recommends (at p. 12) recovery of its shared and direct LNP costs in the current Common Line basket under price cap regulation — in other words, from IXCs. Ameritech recommends (at p. 12) requiring LECs to recover shared and direct LNP costs from their toll and local operations based on the percent of local versus toll traffic they carry. SBC recommends (at pp. 7-9) a complex allocation and recovery scheme whereby two-thirds of all LNP costs would be allocated to intraLATA and interLATA long distance customers through "elemental access line" charges. GTE proposes that total costs be allocated between local and long distance users based on the relative number of local and toll calls.

All of these allocation and recovery schemes ignore two important facts about LNP implementation. First, IXC, CMRS,

and other network services providers *will* be sharing in the total costs of LNP implementation (both shared and direct costs), either through payments for Service Management System (SMS) access and investment in their own networks to interface with the SMS (for those providers that become LNP-capable in their own networks), or through payments to other carriers, e.g., for SCP functionality or database queries (for those carriers that do not become LNP-capable in their own networks).

Second, not all segments of end user customers benefit to the same degree from LNP, and it is appropriate that cost allocation and recovery principles recognize that the primary beneficiaries of LNP are local exchange customers. Local exchange customers will realize lower prices, more service choices, and higher quality as a result of LNP implementation — long distance customers will not.

Contrary to the ILECs' position, the 1996 Act does not require that total LNP costs be spread out across all carriers on some type of equal per-unit basis in order to be competitively neutral. The two parts of the congressional mandate -- that costs be supported by "all telecommunications carriers", and that recovery be on a "competitively neutral" basis — are satisfied more simply and fairly by the cost allocation proposals recommended by MCI and others. Although there are slight variations in their proposals, MCI and other commenters recommend that shared costs be allocated to the

carriers using the SMS,² and that individual carriers recover their own direct costs of implementing LNP in their networks.³

There are two essential reasons why this type of proposal best meets the mandate of the 1996 Act. First, all carrier segments *will* contribute: in addition to porting LECs, LNP-capable carriers such as most IXCs and operator services providers will contribute through their own implementation of SMS interfaces, SCP deployment, etc; non-LNP participating providers such as some smaller IXCs and CMRS providers will contribute through payments for LNP functionality to LNP-capable carriers; local service resellers will contribute either through the wholesale rates they pay facilities-based carriers for service.⁴

² Comments of MCI at 3-8; AT&T at 7-9; Sprint at 5; Teleport Communications Group (TCG) at 4-5; Telecommunications Resellers Association (TRA) at 7; Independent Telephone Companies (ITCs) at 3; Scherers at 2-3; Omnipoint at 2; Pactel at 7; Ameritech at 10-11; BellSouth at 8-9; ITCs at ; Cal. DCA at 17-19; Cal. PUC at 8.

³ Comments of MCI at 9-10; AT&T at 12-14; Sprint at 8-9; TCG at 7-8; TRA at 11-12; Time Warner at 9-10; Personal Communications Industry Association (PCIA) at 7-8; Pactel at 10; Frontier at 2; Airtouch Paging at 3; Winstar at 6-8; Mo. PSC at 4-5; Oh. PUC at 10.

⁴ Some commenters suggested that resellers would somehow be exempted from paying their fair share of LNP costs. See, e.g., Ameritech at 5. However, MCI agrees with US West (at 18-19) that facilities-based carriers should be permitted to recover a fair share of their number portability costs from resellers of their services. The manner in which ILECs will ultimately recover these costs from resellers should parallel the amount and recovery method established for the ILEC's retail end user customers. However, such recovery from purchasers of only unbundled local loops would be inappropriate since LNP costs are associated with the switching function and not the loop function. Carriers purchasing only unbundled loops would still need to

Second, under this proposal, not only are "all telecommunications carriers" contributing to cost recovery, but for each of these segments, allocation and recovery is on a "competitively neutral" basis. According to the principles established by the Commission for interim LNP cost recovery and recommended for long-term cost recovery (FNPRM at para. 210), this mechanism does not give any carrier an appreciable, incremental cost advantage over a competitor when competing for a subscriber, and does not have a disparate effect on the ability of competing providers to earn a normal return.

II. The Commission Should Not Adopt a Pooled Funding Mechanism for Allocation Among Carriers of Shared or Direct LNP Implementation Costs

Several commenters -- primarily LECs -- recommend a pooled funding mechanism for allocating shared and direct LNP implementation costs.⁵ MCI opposes adoption of a pooling arrangement for allocation and recovery of LNP costs. The recommendations for pooling are generally based on one or more erroneous assumptions about the need for pooling, and they ignore the inherent inefficiencies associated with pooling.

A. Erroneous Assumptions

Recommendations for pooling are generally based on one or more of several erroneous assumptions about the need for

acquire their own number portability capabilities.

⁵ E.g., Comments of Bell Atlantic at 3-4; BellSouth at 8; GTE at 8-11; NYNEX at 9-10; Nextel at 4-5; GSA at 4-6; and Fl. PSC at 4-5.

pooling. First, as discussed above, several incumbent LECs interpret the 1996 Act to require subsidy of their LNP investment by other telecommunications carriers. For those carriers, pooling is a means to that end.⁶ However, as MCI explained above, LNP costs will be properly and more equitably borne by all telecommunications carriers without collecting carrier costs into a pool for redistribution.

Second, most incumbent LECs and even some state commentators confuse the logical truth that a majority portion of LNP costs will be incurred by incumbent LECs, with the incorrect inference that incumbent LEC costs are disproportionately high on a per customer basis. This then leads to the incorrect conclusion that incumbent LEC costs must be shared among other competing LECs in order to be "competitively neutral". It is certainly true that incumbent LECs -- with their vastly larger networks and customer bases than their competitors' -- will incur more absolute costs to implement LNP in their networks. However, this does not translate to more costs on a relative basis, and in fact, incumbent LECs will probably incur *less* cost per customer than will their competitors.

New entrants will tend to have higher *unit* (per-customer) costs for LNP deployment than do incumbent LECs, rather than vice versa as the incumbent LECs suggest. This is so because

⁶ Comments of Bell Atlantic at 3-5; Pacific at 12; Ameritech at 12; SBC at 7-9; NYNEX at 8-9.

a variety of network costs exhibit scale economies: the higher the volume, the lower the unit costs. For example, LNP deployment will require all local carriers to load a new version of LNP-capable software in each of their switches. On a per-switch basis, the software licensing fees for incumbent LECs are likely to be lower than for new entrants, because of the substantial switch software discounts common in the telecommunications industry. Moreover, because incumbent LEC switches on average will tend to be closer to their line-serving capacity than will the switches of new entrants (i.e., more end users per switch), the incumbent LECs will experience lower *unit* costs for deployment of LNP capability in their switches. Similarly, both incumbent LECs and new entrants will need to increase their SS7 link capacity and deploy additional SCPs. However, incumbent LECs will be able to augment existing SS7 link capacity at a lower per-unit cost, by using existing SS7 internode fiber facilities and augmenting the circuit electronics to pass traffic at a higher bit rate. New entrants will likely have fewer such opportunities, and may have to install brand-new SS7 link facilities, with the attendant high unit installation costs. In addition, incumbent LECs can also capture the available scale economies associated with their existing deployment of SCPs, while new entrants will need to deploy SCPs in smaller quantities and at lower levels of utilization, thereby resulting in higher unit costs for those SCPs.

Therefore, pooling is not necessary to address any perceived disadvantage to incumbent LECs simply because they will incur more absolute costs than their competitors. Furthermore, pooling among competing LECs would almost certainly result in incumbent LECs and their customers subsidizing the LNP costs of new entrants (and not vice versa) -- a subsidy the new entrants are not asking for.

B. Pooling Inefficiencies

Several commenters -- including incumbent LECs, CLECs and state regulators -- correctly note that pooling is an inefficient and undesirable way to recover costs. For example, the Illinois Commerce Commission ("ICC") notes that pooling reduces the incentives for carriers to incur costs in the most economically efficient manner, and if done on a national basis, leads to undesirable regional cross-subsidization. ICC at 5. Pacific correctly argues that pooling leads to subsidies among competitors which are "incompatible with the competitive process and seriously impair incentives to minimize costs. Pacific at 10-11 and attached Affidavit at 6. Ameritech cites the administrative expense of pooling, notes that pooling may reward and incent inefficiency, and can be avoided because "other more efficient vehicles are available that maintain competitive neutrality." Ameritech at 7.⁷

⁷ See also e.g., Comments of Sprint at 8; TCG at 8; AT&T at 14.

Also, pooling of costs would be unnecessarily burdensome, requiring carriers to implement time-consuming cost studies⁸ and to track and report their costs. These monitoring requirements would significantly drain carrier resources thereby impeding their ability to focus on effectively competing in the marketplace. Furthermore, it would require yet another neutral administrator process for collection and disbursement of funds, which would increase costs of administration and consequently costs of implementation.

MCI's proposed allocation method would be simpler, less expensive, less burdensome and therefore more desirable. MCI reiterates its recommendation that costs of the shared facilities be allocated among carriers based on the following elements: (1) a service establishment charge, (2) a Number Portability Administration/Service Management System (NPAC/SMS) access charge, (3) charges for miscellaneous LNP-related functions, and (4) a porting carrier allocation charge. MCI Comments at 3-6, filed Aug. 16, 1996. These charge elements would adequately address funding for implementation of the shared facilities. MCI further agrees with the majority of recommends that carrier-specific costs directly related to number portability be borne by each carrier incurring such costs (LECS, IXCs, etc.). Carriers should have the flexibility to recover these costs in the manner they deem best, and that is in compliance with

⁸ Comments of TCG at 8; Omnipoint at 6-7.

applicable state and federal regulation.

III. The Commission Should Not Adopt a Surcharge Mechanism for Recovery of Costs

In its initial comments responding to the FNPRM in this docket, MCI states its preference that the Commission not adopt a mechanism by which carriers would recover their costs, preferring instead that the Commission allow carriers to select their own methods for recovery from subscribers. MCI Comments at 10. MCI also shows that carriers should not be allowed to recover their costs from other carriers because to allow such recovery would mean that some carriers would bear a heavier LNP cost burden. *Id.* at 8-10.

In view of the numerous comments regarding a surcharge, however, MCI offers the following discussion regarding recovery through a surcharge mechanism.

Several commenters argue that a uniform, mandatory surcharge should be used to recover shared costs of LNP implementation.⁹ Under these various proposals, revenues from the surcharge would be collected by the carriers, paid in to a fund and periodically disbursed to all carriers based on reported LNP costs.¹⁰

MCI opposes a mandatory surcharge for recovery of LNP

⁹ Comments of USTA at 18-19; USW at 5-9; Bell Atlantic at 8; Cincinnati Bell Telephone (CBT) at 6-7, 9; GTE at 9-11; NYNEX at 11-12; Pactel at 10; Ameritech at 8; Cal. DCA at 23-24; GSA at 10.

¹⁰ Comments of SBC at 7-10; NYNEX at 11-12; GTE at 13-14.

costs. As with pooling, the surcharge mechanisms would be administratively complex. The surcharge/pooling mechanism advocated by these commenters would require extensive reporting by carriers. US West and Cincinnati Bell suggest that ILECS could file quarterly reports detailing both their number portability expenditures and their federal surcharge revenues.¹¹

More importantly, a surcharge on customers' bills would not be competitively neutral because it would direct hostility toward number portability as a concept and toward potential competitors as users of the numbers. TCG at 10.

Furthermore, making a surcharge mandatory would needlessly interfere with the state regulators' cost recovery authority. MCI agrees with state commenters which argue that these recovery issues are better left to the states.¹²

IV. The Commission Need Not Specify a National Cost Recovery Mechanism

MCI supports the FCC's tentative conclusion in the FNPRM (§209) that Section 251(e)(2) of the 1996 Act does not address cost recovery of LNP costs from consumers, but only the allocation of such costs from carriers. MCI generally agrees with the comments of state utility commissions and other parties that support giving flexibility to the states to

¹¹ Comments of USW at 21; CBT at 11.

¹² Comments of Cal. PUC at 9-11; Col. PUC at 6-10; Oh. PUC at 4-6; ICC at 4-5.

determine the most appropriate end user cost recovery mechanism.¹³

However, MCI strongly supports the need for the Commission to establish clear principles for cost recovery that will ensure that all specific mechanisms for recovering costs from end users that are subsequently adopted by states will be competitively neutral and promote efficient and robust local exchange competition.¹⁴ The guidelines already established by the FCC for interim LNP cost recovery and recommended for long-term recovery should be the basis for these guidelines.¹⁵ In addition, the FCC should clearly prohibit a carrier from recovering its LNP costs in the rates it charges another carrier.

As the California PUC states, "Carriers should be allowed only to pass their specific number portability costs to end users and not to other carriers. Allowing incumbent carriers to pass costs to other carriers would defeat efforts to ensure competitive neutrality among all carriers. Cost recovery is not competitively neutral if one group of carriers can pass its costs on to other carriers." CPUC at 13, emphasis added. (See also, MFS at 4-5; TRA at 10: "Permitting an ILEC to

¹³ Comments of Illinois Commerce Commission (ICC) at 4-5; Cal. PUC at 9-11; Fl. PSC at 2; Oh. PUC at 5-6; Mo. PUC at 5; N.Y. DPS at 2; TCG at 6-7.

¹⁴ Comments of Association for Local Telecommunications Services at 3; TCG at 6-7.

¹⁵ Comments of Oh. PUC at 5; Sprint at 4; Time Warner at 6, TRA at 6.

recover number portability costs from rival providers of local exchange services would constitute a license to strategically manipulate costs and cost recovery mechanisms for competitive advantage.")

V. The Commission Should Not Use Gross Revenues to Allocate Shared LNP Costs

MCI joins many commenters in opposing the proposal to allocate shared (or shared and joint) LNP costs on the basis of carrier revenues.¹⁶ As all of these diverse commenters point out, allocation by this method is subject to distortion and presents significant implementation problems. The Commission would have to decide what constitutes revenue, the method by which revenues would be calculated, and the party that would administer the "tax". AT&T at 9-10. The allocation would have to be continually updated as new companies enter and leave the market, and as revenue shares grow and diminish. CBT at 7-8. A gross revenue allocator would encourage LECs to move revenues such that they would not be counted in the allocator. Oh. PUC at 6. Perhaps most significantly, a gross revenue allocator would not provide individual carriers with incentives to most efficiently utilize the SMS (to the extent it is used only for shared cost allocation), because their costs would be based not on their use of the SMS but on their revenues. And if gross revenues were used as the basis to

¹⁶ Comments of Sprint at 6-8; Oh. PUC at 6-7; CBT at 7-8; SBS at 6-7; AT&T at 9-10.

allocate both shared and direct LNP costs, as recommended by most RBOCs, then there would be an even greater loss of incentives to implement LNP efficiently within networks.

Conversely, allocation of shared costs based on presubscribed lines or active telephone numbers is a far simpler and more equitable allocation mechanism.¹⁷ Local access lines or active telephone numbers is a more tangible number than gross revenues (Oh. PUC at 6), and would provide a more accurate view of the degree of basic local exchange competition than gross revenues (Sprint at 7). For example, as Sprint argues, "market share as measured by net revenues might be overstated because such revenues include different mixes of services offered at different rates....or might be understated because revenues reflect promotional discounts on basic local service." *Id.*

¹⁷ Comments of AT&T at 8-9, n. 11; Sprint at 6-8; Oh. PUC at 6. MCI agrees with AT&T that SMS costs should be recovered through a combination of functional charges assessed to both uploaders and downloaders of information. See, AT&T at 8 and MCI at 3-6. MCI's recommendation for allocation based on carriers' relative number of lines or active telephone numbers is specifically directed at the category which would recover from data uploaders (i.e., from porting LECs) the bulk of the SMS costs. Other SMS rates would recover the incremental cost of service establishment, access to the SMS, and miscellaneous charges for specialized functions.

VI. LNP Carrier-Specific Costs Should Not Include General Network Upgrades

Many of the LECs recommend expanding the definition of recoverable LNP-specific costs to include network upgrade costs that otherwise would not have been incurred except for LNP.¹⁸ GTE asks that costs that would not have been incurred in a five-year planning horizon should be recoverable in the "national surcharge" it recommends, or that, in the alternative, LNP should be considered not "technically feasible". GTE at 4-6.

MCI disagrees with those commenters and instead agrees with the majority of commenters that carrier-specific costs directly attributable to number portability should be borne by each carrier.¹⁹

Some parties argue that smaller ILECs must be able to recover their carrier-specific costs, especially costs of upgrades made to SS7 and AIN capabilities that they would otherwise not have made.²⁰ Also, USTA raises a concern about small LECs with under 2% of lines nationally, and asks for special consideration on recovery of network upgrades. USTA

¹⁸ Comments of CBT at 3-4; National Cooperative Telephone Association/Organization for the Promotion and Advancement of Small Telephone Companies (NCTA/OPASTCO) at 7; US West at 9-11; Ameritech at 3; BellSouth at 6.

¹⁹ Comments of TCG at 7-8; Sprint at 8-9; ALTS at 6; Time Warner at 9-10; AT&T at 12-14; Pactel at 10; PCIA at 7-8; TRA at 11-12; MOPSC at 4-5; PUCO at 10; Frontier at 2; Airtouch Paging at 3; Winstar at 6-8.

²⁰ Comments of NCTA/OPASTCO at 2-7; CBT at 3-4.

at 2.

The Commission has established a procedure, that is authorized by Section 251(f)(2) of the 1996 Act, under which a small carrier may seek a waiver of the implementation requirements. If a small carrier believes it cannot afford to provide portability in a given end office it should seek a sucha a waiver rather than seeking to add the costs of its own ungrades to the costs of LNP implementation.

V. Conclusion

In view of the foregoing, MCI supports the comments of parties recommending allocation of the majority of shared local number portability costs to each porting local carrier based on those carriers' relative number of active telephone lines, rather than allocated based on carrier gross revenues; and allocation of carrier internal network implementation costs to all telecommunications carriers incurring such costs. Although MCI urges the Commission to adopt rules that reflect these cost-causative recovery principles, MCI opposes parties' suggestions that the Commission establish national LNP cost recovery mechanisms, such as a pool to recover shared costs, and instead recommends that recovery of LNP costs from end users be managed by states in accordance with principles

established by the Commission. In addition, MCI opposes imposition of mandatory surcharges for recovery of shared costs.

Respectfully submitted,

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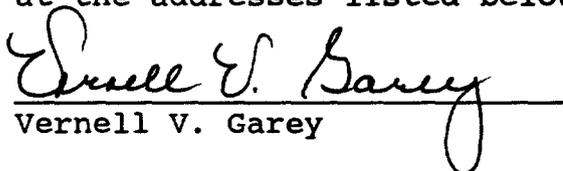
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I, Vernell V. Garey hereby certify that the foregoing "REPLY COMMENTS", CC Docket No. 95-116 was served this 16th day of September, 1996, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:


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