

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

RECEIVED

OCT 10 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Telephone Number Portability ) CC Docket No. 95-116  
 ) RM 8535  
 )

REPLY

DOCKET FILE COPY ORIGINAL

BellSouth Corporation and BellSouth Telecommunications, Inc., by counsel, submit this reply to oppositions filed to their petition for reconsideration filed in this proceeding.<sup>1</sup>

I. THE COMMISSION SHOULD RECONSIDER ITS APPLICATION OF SECTION 251(E)(2) TO INTERIM NUMBER PORTABILITY

MCI accuses BellSouth of using the term “Transitional Measures” in an attempt to “bolster” its argument that section 251(e)(2)’s cost allocation provision applies only to long-term database method number portability (“LNP”) and not to interim number portability provided through some form of call forwarding arrangement routed through the local exchange carrier’s switch.<sup>2</sup> “Transitional Measures” is, in fact, the Commission’s own nomenclature for interim number portability arrangements such as remote call forwarding (“RCF”), and direct inward dialing (“DID”).<sup>3</sup> Simply stated, interim number portability is different from number portability

<sup>1</sup> Public Notice, *Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings*, FCC Report No. 2151, Subject: Telephone Number Portability (CC Docket No. 95-116) 61 Fed. Reg. 48154 (Sep. 12, 1996).

<sup>2</sup> MCI Telecommunications Corporation & MCI Metro, *Opposition to Petitions for Reconsideration and Clarification* at 2 (Sep. 27, 1996).

<sup>3</sup> *Number Portability Order*, B-4, to be codified at 47 C.F.R. § 52.1(t)(defining “transitional measure”).

  
\_\_\_\_\_  
Date: \_\_\_\_\_

“without impairment of quality, reliability or convenience”, which is what is required by the Act.<sup>4</sup> Interim number portability is no more a “technically feasible” method of long-term database number portability<sup>5</sup> than an apple is a technically feasible orange. Thus, the Commission must reject the arguments of MCI, AT&T, Time Warner and Sprint.<sup>6</sup> The Commission has to read the “to the extent technically feasible” language in Section 251(b)(2) in one of two ways. It is either strictly construed as a timing device fulfilled by the Commission’s LNP implementation schedule as the agency’s determination of the extent to which Section 153(30) number portability (specifically, long term database method) will be technically feasible, or broadly construed to modify a separate and distinct section of the 1996 Act so as to read into Section 153(30) a “gradations of feasibility” qualifier<sup>7</sup> that is simply not there.

The phrase “to the extent technically feasible” is better read as a timing device. To read otherwise would be to convert Congress’ specific definition of number portability in Section 153(30) into a dynamic definition of number portability: number portability as specifically defined by Congress becomes whatever the agency says it is at any given point in time. Overbroad construction of Congress’ LNP mandate would further extend the Commission’s jurisdiction over

---

<sup>4</sup> 47 U.S.C. §153(30).

<sup>5</sup> *Id.* at B-3, to be codified at 47 C.F.R. §52.1(i) (defining “long-term database method”).

<sup>6</sup> Contrary to Sprint’s assertion at p. 9-10 of their comments, BellSouth has not done an “about-face.” BellSouth is not saying that interim number portability is not a form of number portability, but that interim number portability is not Section 153(30) number portability. In its initial comments filed in this proceeding, BellSouth advocated state jurisdiction over interim RCF and DID methods, and advocated cost-causative cost recovery for all forms of number portability. BellSouth still maintains that state have exclusive jurisdiction over RCF and DID, and that there is no federal mandate for the commission to deal in any way with the costs of those intrastate services.

<sup>7</sup> Comments of Time Warner Communications Holdings, Inc. at 11.

wholly intrastate functionalities in derogation of the Communications Act.<sup>8</sup> States clearly have the authority to require interim number portability as a precondition to certification as a local exchange service provider. The Commission determined that it had authority independent of the Communications Act to require local exchange carriers to provide interim number portability.<sup>9</sup> Bell operating companies that desire to provide in-region interLATA service have the explicit congressional mandate to provide interim number portability until LNP is to be implemented. It is simply unnecessary to graft Section 251(b)(2)'s "technical feasibility" language on the Section 153(30) definition of number portability in order to ensure that interim number portability will be made available.

Finally, it is disingenuous for MCI to state that the costs of providing interim number portability will fall proportionately on all carriers, especially when the Commission has already determined that most of the costs will fall on incumbent LECs. At least in the early stages, all of the number porting will be from incumbent LECs to alternative carriers, who will reap all of the benefit. A system that allows one carrier to incur all of the cost and all other carriers to receive all of the benefits at a price "close to zero" can hardly be described as proportionate. Equally disingenuous is MCI's argument that LEC opposition to the Commission's usurping state

---

<sup>8</sup> 47 U.S.C. §152(b). Congress could have given the Commission explicit jurisdiction to mandate interim number portability for all LECS. *See* S. 652, Sec. 261(a)&(b), requiring interim telecommunications number portability to be made available upon request in interconnection agreements, and requiring that final telecommunications number portability be made available upon request in interconnection agreements "when the Commission determines that final telecommunications number portability is technically feasible." Pike & Fisher, *The Telecommunications Act of 1996, Law and Legislative History*, p. SR-108.

<sup>9</sup> Even if the Commission has such independent authority, it has no authority to apply the 1996 Act's number portability cost provisions to any rule promulgated under such independent authority.

jurisdiction and interfering with carrier to carrier contracts constitutes an implicit acknowledgment that current pricing for interim number portability is not competitively neutral. Competitively neutral cost allocation is a federal regulatory intervention in the interstate telecommunications marketplace and is not the standard to be applied to intrastate services.

II. THE LONG-TERM DATABASE NUMBER PORTABILITY IMPLEMENTATION SCHEDULE SHOULD NOT BE ALTERED IN A WAY THAT MAKES IMPLEMENTATION MORE DIFFICULT.

BellSouth proposed that the implementation period for both Phase I and Phase II of the LNP deployment schedule be extended from 90 to 180 days. Some commenters oppose this proposal, pointing to the availability of waivers and advocating that any deviation from the Commission's schedule should be made on a case by case basis. Such waivers are an important part of the *Number Portability Order*.

Nevertheless, the Commission should establish a one time change in the implementation schedule. BellSouth and others have pointed out the difficulties posed by schedule, and the enormous amount of work that needs to be done. The results of the Chicago field trial will be available (if made available on time) on the day before Phase I implementation is to begin. There is no way that any meaningful use or analysis can be made of these test results in time to implement LNP for the first time in the largest MSAs in only 90 days. It makes sense that it would take a little longer to implement the first (and the very largest) MSAs than it would the last few. Extending the first two implementation periods would not affect the commencement of implementing any phase, or the completion of all remaining phases.

III. IT IS PREMATURE TO ELIMINATE QOR WHEN ITS USE COULD SAVE THE INDUSTRY AND END USERS HUNDREDS OF MILLIONS OF DOLLARS

A number of comments concede the impracticality of the Commission's fourth LNP performance criteria.<sup>10</sup> The weight of the record is in favor of allowing LECs the freedom to choose QOR as an LNP solution. All regulatory impediments to QOR must be removed. BellSouth has continued to develop and refine the cost figures to implement LNP as it gains further information and data. Preliminary calculations indicate that BellSouth would save \$101.5 million over five years based upon 10% ported numbers if it were allowed to use QOR.<sup>11</sup> The magnitude of \$101.5 million cannot be ignored; this sum represents a material financial impact to BellSouth and, indeed, the figure represents over half of the Commission's FY95 operating budget. The Commission should be extremely cautious in denying LECs the opportunity to

---

<sup>10</sup> See, e.g., Time Warner Comments at 4 ("It is of course true that all interconnected carriers must rely on each other's networks to some extent."); Telecommunications Resellers Association at 12 ("As resale carriers, TRA's members will always be forced to rely to some extent on the facilities of other carriers. Initially, TRA's resale carrier members will rely almost exclusively on the facilities of the ILECs.").

<sup>11</sup> The breakdown of the savings is as follows:

Service Control Point ("SCP") savings \$80.5 million	\$80.5 million
Common Channel Signaling Network ("CCSN") savings \$20.8 million	20.8 million
Switch savings	<u>.2 million</u>
TOTAL	\$101.5 million

This savings is significantly greater than BellSouth's previously reported figures (\$50 million over five years) primarily due to the fact that SCP capacity will be lower than previously estimated. Originally it was thought that BellSouth would have to deploy SCP pairs within state boundaries, but greater savings can be obtained using QOR and a regional deployment strategy.

deploy technical solutions that could save the industry, and ultimately end users, hundreds of millions of dollars in costs.

The *Number Portability Order* quotes AT&T as stating that QOR is only more cost effective than pure location routing number (“LRN”) if less than 12% of the subscribers port on a Lucent switch or 23% on Siemens switches. BellSouth does not quarrel with these percentages if only switch costs are considered. However, as can be seen in the breakdown above, *supra* n. 11, the overwhelming majority of the QOR savings is in SCP and CCSN costs. Unlike the switch cost savings, there is no break-even or crossover point for the SCP and CCSN costs savings until the QOR query load becomes equal to the LRN query load. The SCP and CCSN costs are directly proportional to the query load. When an aggregate of switch, SCP, and CCSN costs is considered, the crossover is much higher. BellSouth’s studies indicate that QOR becomes less cost effective than LRN in the BellSouth network after 68% of the telephone numbers have ported. This means that QOR is a viable long term solution rather than a short term fix. The record in this proceeding makes clear that across the nation other companies will be able to obtain similar savings using QOR, making industry wide cost savings too substantial to be ignored.

**IV. THE 1996 ACT DOES NOT REQUIRE 500/900 NUMBER PORTABILITY; IF REQUIRED BY THE COMMISSION THEN ALL CARRIERS MUST PROVIDE SUCH CAPABILITY.**

BellSouth agrees with NYNEX, GTE, SBC and USTA that section 251(b)(2) of the Communications Act should not be read to require number portability for non-geographic numbers such as 500 and 900.<sup>12</sup> The Commission should therefore reconsider its determination. BellSouth notes, however, that no interexchange exchange carrier (“IXC”) controverts

---

<sup>12</sup> NYNEX Opposition and Comments at 7.

BellSouth's observation that the vast majority of these numbers are assigned to IXCs. Further, no IXC or alternative LEC opposes BellSouth's proposal that, should the Commission mandate 500/900 portability, all carriers should participate. As this proposal has support in the record, the Commission should adopt it if it determines to proceed with 500/900 portability.<sup>13</sup>

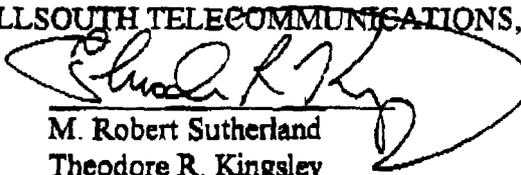
### CONCLUSION

The costs of interim number portability arrangements are the proper subject of voluntarily negotiated interconnection arrangements and determinations by State commissions. The Commission should modify its original LNP implementation schedule to extend the implementation period for both Phase I and Phase II from 90 to 180 days. The Commission should not eliminate QOR as a potential LNP solution. Finally, the Commission should not mandate portability of non-geographic numbers at this time, but, if it does, it should require that all carriers participate in the portability plan.

Respectfully submitted,

BELLSOUTH CORPORATION and  
BELLSOUTH TELECOMMUNICATIONS, INC.

By:

  
M. Robert Sutherland  
Theodore R. Kingsley

Their Attorneys

Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3610  
(404) 249-3392

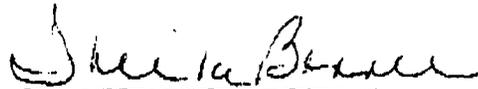
DATE: October 10, 1996

---

<sup>13</sup> See NYNEX Opposition and Comments at 7-8; GTE Opposition at 23-24.

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 10th day of October, 1996 served all parties to this action with a copy of the foregoing REPLY by placing a true and correct copy of the same in the United States mail, postage prepaid, addressed to the parties listed on the attached service list.

  
Sheila Bonner  
Sheila Bonner

**CC DOCKET NO. 95-116**

Cellular Telecommunications Industry Association  
Wendy C. Chow  
Michael Altschul  
Randall S. Coleman  
1250 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20036

Andrew D. Lipman  
Erin M. Reilly  
SWIDLER & BERLIN, CHARTERED  
Attorneys for KMC Telecom, Inc.  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007

National Exchange Carrier Association, Inc.  
Richard A. Askoff  
100 South Jefferson Road  
Whippany, NJ 07981

Bell Atlantic  
John M. Goodman  
Edward D. Young, III  
1133 20th Street, N.W.  
Washington, D.C. 20036

John T. Scott, III  
CROWELL & MORING LLP  
Attorneys for Bell Atlantic NYNEX Mobile, Inc.  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Cincinnati Bell Telephone Company  
Thomas E. Taylor  
Sr. Vice President-General Counsel  
201 East Fourth Street, 6th Floor  
Cincinnati, OH 45202

Christopher J. Wilson  
FROST & JACOBS  
Attorney for Cincinnati Bell Telephone Company  
2400 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202

Michael S. Fox  
Director, Regulatory Affairs  
John Staurulakis, Inc.  
Telecommunications Consultants  
6315 Seabrook Road  
Seabrook, MD 20706

Nextlink Communications L.L.C.  
J. Scott Bonney  
Vice President  
Regulatory and External Affairs  
155 108th Avenue, N.E.  
Bellevue, Washington 98004

Daniel M. Waggoner  
DAVIS WRIGHT TREMAINE  
Attorney for NEXTLINK Communication L.L.C.  
2600 Century Square  
1501 Fourth Avenue  
Seattle, Washington 98101

Richard L. Cys  
Attorney for NEXTLINK Communication L.L.C.  
1155 Connecticut Avenue, N.W.  
Suite 700  
Washington, D.C. 20036

Nextel Communications, Inc.  
Robert S. Foosaner  
Lawrence R. Krevor  
Laura L. Holloway  
800 Connecticut Avenue, N.W.  
Suite 1001  
Washington, D.C. 20006

National Telephone Cooperative Association (NTCA)  
David Cosson, Esq.  
L. Marie Guillory, Esq.  
2626 Pennsylvania Avenue, N.W.  
Washington, D.C. 20037

Organization for the Promotion and Advancement  
of Small Telecommunications Companies (OPASTCO)  
Lisa M. Zaina, Esq.  
21 Dupont Circle, N.W.  
Suite 700  
Washington, D.C. 20036

The NYNEX Telephone Companies  
Campbell L. Ayling  
1111 Westchester Avenue  
White Plains, NY 10604

SBC Communications, Inc.  
James D. Ellis  
Robert M. Lynch  
David F. Brown  
175 E. Houston  
Room 1254  
San Antonio, TX 78205

Southwestern Bell Telephone Company  
Durward D. Dupre  
Mary W. Marks  
One Bell Center  
Room 3558  
St. Louis, Missouri 63101

Southwestern Bell Mobile Systems  
Bruce Beard  
17330 Preston Road  
Suite 100A  
Dallas, TX 75252

U. S. Telephone Association  
Mary McDermott  
Linda Kent  
Charles D. Cosson  
Keith Townsend  
1401 H Street, N.W., Suite 600  
Washington, D.C. 20005

U S West, Inc.  
Mark D. Roellig  
Dan L. Poole  
Jeffrey S. Bork  
1020 19th Street, N.W., Suite 700  
Washington, D.C. 20036

J. Roger Wollenberg  
John H. Harwood II  
Jonathan J. Frankel  
WILMER, CUTLER & PICKERING  
Attorneys for U S West, Inc.  
2445 M Street, N.W.  
Washington, D.C. 20037-1420

American Communications Services, Inc.  
Riley M. Murphy  
James C. Falvey  
131 National Business Parkway  
Suite 100  
Annapolis Junction, MD 20701

Brad E. Mutschelknaus  
Edward A. Yorkgitis, Jr.  
KELLEY DRYE & WARREN, LLP  
Attorneys for American Communications Services, Inc.  
1200 19th Street, N.W.  
Suite 500  
Washington, D.C. 20036

AirTouch Communications, Inc.  
David A. Gross  
Kathleen Q. Abernathy  
1818 N Street, N.W.  
Suite 800  
Washington, D.C. 20036

Charles V. Gerkin, Jr.  
CHOREY, TAYLOR & FEIL, P.C.  
Attorney for AirTouch Communications, Inc.  
3399 Peachtree Road, N.E.  
Suite 1700, The Lenox Building  
Atlanta, GA 30326

American Mobile Telecommunications Association, Inc.  
Jill Lyon, Director of Regulatory Relations  
1150 18th Street, N.W.  
Suite 250  
Washington, D.C. 20036

Elizabeth R. Sachs, Esq.  
LUKAS, MCGOVEN, NACE & GUTIEERREZ  
Attorneys for American Mobile Telecommunicaitons  
Association, Inc.  
1111 Nineteenth Street, N.W. - 12th Floor  
Washington, D.C. 20036

MCI Telecommunications Corporation  
MCI Metro  
Loretta J. Garcia  
Donald J. Elardo  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Pacific Telesis Group  
Pacific Bell, Nevada Bell, Pacific Bell Mobile Services  
Marlin D. Ard  
Nancy C. Woolf  
140 New Montgomery Street  
Room 1523  
San Francisco, CA 94105

Margaret E. Garber  
Attorneys for Pacific Telesis Group,  
Pacific Bell, Nevada Bell, Pacific Bell Mobile Services  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

GTE Service Corporation  
David J. Gudino  
HQE03F05  
P. O. Box 152092  
Irving, TX 75015-2092

Gail L. Polivy  
Attorney for GTE Service Corporation  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036

Jeffrey S. Linder  
Angela N. Watkins  
WILEY, REIN & FIELDING  
Attorneys for GTE Service Corporation  
1776 K Street, N.W.  
Washington, D.C. 20006

Charles C. Hunter  
Catherine M. Hannan  
HUNTER & MOW, P.C.  
Attorneys for  
Telecommunications Resellers Association  
1620 I Street, N.W.  
Suite 701  
Washington, D.C. 20006

Association for Local Telecommunications Services  
Richard J. Metzger  
General Counsel  
1200 19th Street, N.W.  
Suite 560  
Washington, D.C. 20036

Leon M. Kestenbaum  
Jay C. Keithley  
Norina T. Moy  
1850 M Street, N.W.  
Suite 1110  
Washington, D.C. 20036

Intelcom Group (U.S.A.), Inc.  
Cindy Z. Schonhaut  
Vice President - Government Affairs  
9605 East Maroon Circle  
Englewood, CO 80112

AT&T  
Mark C. Rosenblum  
Roy E. Hoffinger  
Clifford K. Williams  
295 North Maple Avenue  
Room 3252I1  
Basking Ridge, NJ 07920

MCI Telecommunications Corporation  
Woody Traylor  
2250 Lakeside Blvd.  
Richardson, TX 75082

Albert H. Kramer  
Robert F. Aldrich  
Christopher T. McGowan  
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP  
Attorneys for the IntelCom Group (U.S.A.), Inc.  
2101 L Street, N.W.  
Washington, D.C. 20554

Stephen P. Bowen  
Blumenfeld & Cohen  
Attorneys for MCI Telecommunications Corporation  
MCI Metro  
101 California Street  
42nd Floor  
San Francisco, CA 94111

W. Kenneth Ferree  
Jonathan Wiener  
Goldberg, Godles, Wiener & Wright  
Attorneys for  
RAM Mobile Data USA, LP  
1229 Nineteenth Street, N.W.  
Washington, D.C. 20036

Brian Conboy  
Sue D. Blumenfeld  
Thomas Jones  
WILLKIE FARR & GALLAGHER  
Attorneys for Time Warner Communications  
Holdings, Inc.  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20036

ALLTEL Corporate Services, Inc.  
Glenn S. Rabin  
Federal Regulatory Counsel  
655 15th Street, N.W.  
Suite 220  
Washington, D.C. 20005

Caressa D. Bennet  
Gregory Whiteaker  
Bennet & Bennet, PLLC  
Attorneys for The Rural Telecommunications Group  
1019 Nineteenth Street, N.W.  
Suite 500  
Washington, D.C. 20036