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Federal Communications Commission

DA 98-152

DISPATCHED

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Local Number Portability) CC Docket 95-116
Phase I Implementation)
)

ORDER**Adopted:** January 28, 1998**Released:** January 28, 1998**By the Chief, Network Services Division:****I. INTRODUCTION**

1. On January 21, 1998, the Chairman of the North American Numbering Council (NANC) wrote to the Chief of the Common Carrier Bureau to inform him that the Phase I implementation schedule for local number portability deployment will be "significantly affected in the Southeast, Western, and West Coast regions by vendor failure to provide a stable platform to support local number portability."¹

2. NANC explained that the affected regional limited liability corporations (LLCs) currently are evaluating the impact of this failure and identifying possible solutions to facilitate implementation in their regions. NANC stated that it anticipated that the affected LLCs will provide the Commission with pertinent information concerning this issue no later than the end of January.²

3. In the letter, NANC recommended that the Commission extend the time period in which affected carriers in the Southeast, Western and West Coast regions may file any necessary petitions for waiver of the Commission's rules requiring implementation of permanent local number portability from January 29, 1998 until March 1, 1998.³ NANC noted that if its recommendation was accepted, the requested filing delays "should not be construed to imply a delay in the implementation schedule." NANC further stated that carriers anticipating delays in Phase 1 implementation unrelated to vendor failure in the above regions are not affected by this request.⁴

¹ Letter from Alan Hasselwander, Chairman, North American Numbering Council, to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, FCC, January 21, 1998 (NANC January 21 Letter).

² *Id.*

³ *Id.* See In the Matter of Telephone Number Portability, *First Memorandum Opinion and Order on Reconsideration*, CC Docket No. 95-116 (rel. March 11, 1997).

⁴ NANC January 21 Letter.

4. The Common Carrier Bureau (Bureau) issued a public notice concerning the NANC recommendation on January 21, 1998.⁵ For the reasons set forth below, we accept NANC's recommendation and will allow affected carriers in the Southeast, Western, and West Coast regions until March 1, 1998 to file any necessary petitions for waiver of the Commission's rules requiring implementation of permanent local number portability in the top 100 Metropolitan Statistical Area (MSAs).

II. DISCUSSION

5. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act) became law.⁶ Section 251(b)(2) of the Telecommunications Act of 1996 imposes the responsibility for implementing local number portability on local exchange carriers (LECs).⁷ Should LECs be unable to meet the Commission's deadlines for implementing local number portability, they may file a petition to extend the time by which implementation in its network will be completed at least 60 days in advance of the deadline.⁸ In this case, waiver petitions must be filed by January 29, 1998, which is 60 days prior to the March 31, 1998, deadline.

6. The Commission may waive any provision of its rules, in whole or in part, on its own motion or on petition if good cause therefor is shown.⁹ An applicant for waiver must demonstrate that special circumstances warrant a deviation from the general rule and that such deviation will serve the public interest.¹⁰

7. We find NANC's recommendation to be well supported in the record and in the public interest. First, commenters agree that vendor failure in the affected regions is the principal reason for carriers' expected inability to timely meet the Commission's March 31, 1998 Phase I implementation date. Second, the regional LLCs in the affected regions are currently involved in negotiations to resolve issues associated with the expected delayed deployment. We agree with the comments of MCI that there exists too much uncertainty at

⁵ See *Common Carrier Bureau Seeks Comment on the NANC Recommendation to Delay Filing of 47 C.F.R. § 52.3(e), Waiver Requests by Individual Carriers for Local Number Portability Phase I Implementation*, Public Notice, DA 98-109, (Com. Car. Bur., rel. Jan. 21, 1998). Comments were due on January 26, 1998 and were filed by ALLTEL Communications Services Corporation; BellSouth Corporation; GTE Service Corporation; MCI Telecommunications Corporation; SBC Companies; Sprint Corporation; U S WEST, Inc.; West Coast Portability Services, LLC, and WorldCom, Inc.

⁶ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996 Act), *codified at* 47 U.S.C. §§ 151 *et seq.* The 1996 Act amended the Communications Act of 1934.

⁷ 47 U.S.C. § 251(b)(2).

⁸ 47 C.F.R. § 52.3(e).

⁹ See 47 C.F.R. § 1.3.

¹⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

this time to expect that they will be able to make a detailed showing of circumstances giving rise to a waiver request by January 29.¹¹ By March 1, 1998, however, we believe more information will be available on the impact of vendor failure in the Southeast, Western, and West Coast regions along with possible solutions to the problem, and that carriers should be in a better position to evaluate their ability to meet our March 31, 1998 implementation deadline. We agree with Sprint, that filing of waiver requests by the end of January, as currently required, would offer little information beyond the fact that a problem exists with the local number portability platform vendor.¹²

8. While we grant the requested 30 day extension of time, we emphasize that we limit our extension in two ways. First, it is granted only to carriers in the West Coast, Southeast, and West regions for the three Phase I MSAs in those regions. Second, since the delay does not affect carriers' ability to deploy local number portability within their switches or other network elements, the extension of time applies only to deployment delays that specifically relate to availability of the vendor-supplied Number Portability Administration Center/Service Management System (NPAC/SMS). Any carrier that cannot meet the March 31, 1998 local number portability implementation date for any other reason, or in any region other than the three above specified, still must file its request for waiver by January 29, 1998, and justify such waiver request with a complete and detailed explanation of the unique circumstances which prevent it from meeting the Commission's implementation date. Finally, as NANC correctly notes, our decision to allow filing requests for waiver on March 1, 1998 does not constitute a waiver of the March 31, 1998 implementation deadline for permanent local number portability. Requests for waiver of the March 31, 1998, deadline will be addressed separately and on their merits.

III. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to the authority delegated in Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that affected carriers in the Southeast, Western, and West Coast regions shall have until March 1, 1998, to file waiver requests pursuant to 47 C.F.R. § 52.3(e), to the extent described herein.

¹¹ MCI Comments at 4. Under Section 52.3 (e) of our rules, a carrier seeking such relief must demonstrate through substantial, credible evidence the basis for its contention that it is unable to comply with the mandated deployment schedule. Such requests must set forth: (1) the facts that demonstrate why the carrier is unable to meet the Commission's deployment schedule; (2) a detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time; (3) an identification of the particular switches for which the extension is requested; (4) the time within which the carrier will complete deployment in the affected switches; and (5) a proposed schedule with milestones for meeting the deployment date. 47 C.F.R. § 52.3(e).

¹² Sprint Comments at 2-3.

10. IT IS FURTHER ORDERED, that this Order is effective upon adoption.

FEDERAL COMMUNICATIONS COMMISSION



Geraldine Matis
Chief, Network Services Division
Common Carrier Bureau