

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Joint Petition of the National Exchange Carrier Association, Inc.)
(NECA), National Rural Telecom Association (NRTA), National)
Telephone Cooperative Association (NTCA), Organization for the)
Promotion and Advancement of Small Telecommunications)
Companies (OPASTCO), and United States Telephone)
Association (USTA) for Expedited Interim Waiver of Section)
52.33(a) of the Commission's Rules)

CC Docket No. 95-116 ✓
CCB/CPD No. 99-9

COMMENTS

Sprint Corporation hereby respectfully submits its comments opposing the above-captioned Petition for Waiver of Section 52.33(a) of the Commission's Rules filed by NECA, NRTA, NTCA, OPASTCO, and USTA (collectively, Petitioners) in response to the Public Notice released March 24, 1999 (DA 99-581).

Petitioners request that incumbent LECs who are not obligated to provide local number portability (LNP) in specific serving areas be allowed to recover their carrier-specific LNP costs from interstate traffic sensitive access charges. They state that "many ILECs that are not required to provide LNP have joint local calling agreements with carriers who are, or soon will be, providing number portability. In these instances, non-LNP-providing ILECs serve as the "N-1" carrier for all calls placed to NXXs served by the LNP-providing carrier, and incur usage-based charges for virtually all calls terminating in the neighboring ILEC's LNP-capable exchanges" (Petition, pp. 2-3). They also point out that all ILECs are required to contribute to the costs of the regional LNP databases (*id.*, p. 2).

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The Commission's *Third Report and Order* is explicit regarding ILEC LNP cost recovery:

We will allow but not require incumbent LECs subject to rate-of-return or price-cap regulation to recover their carrier-specific costs directly related to providing number portability through a federal charge assessed on end users.... Because number portability is not an access-related service and IXCs will incur their own costs for the querying of long distance calls, we will not allow LECs to recover long-term number portability costs in interstate access charges. Nor would it likely be competitively neutral to do so.

Telephone Number Portability, 13 FCC Rcd 11701, 11773 (para. 135) (1998) (footnote omitted).

Nothing in Section 52.33(a)(1) appears to prevent any ILEC from assessing its end user customers a monthly charge to recover its carrier-specific costs of providing long-term number portability, so long as the end user is in one of the 100 largest MSA or is served by a number-portability-capable switch outside the top 100 largest MSAs. In Sprint's view, this rule allows ILECs represented by Petitioners, who have joint local calling agreements with other ILECs, to implement an end user LNP rate element. End users whose local calls are routed through a neighboring ILEC's LNP-capable switch can reasonably be considered to be served by the neighboring ILEC's switch, since the call could not otherwise be completed. Thus, the originating ILEC should be allowed to implement an end user charge to recover any query charges assessed.¹

Petitioners' request is particularly egregious because the bulk of the costs which they propose to recover through interstate traffic sensitive access charges are for *local* calls.² IXCs

¹ The Commission has stated that carrier-specific costs directly related to providing LNP includes the costs of querying calls (*Third Report and Order*, para. 72); therefore, the query charges imposed on the N-1 ILEC for a local or intraLATA toll call are eligible for recovery through the end user charge.

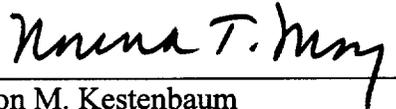
² The same problem arises in situations in which the ILEC is the intraLATA toll service provider. In these cases, where the ILEC is the N-1 carrier, any query charges incurred should be recovered from the intraLATA toll customer. To recover these costs from any other rate

derive no benefit from ILECs' querying the LNP database for local calls, and there is no rational basis for attempting to shift the costs of routing a local call onto interstate access customers.

Allowing ILECs to allocate their LNP costs to interstate traffic sensitive switched access rates is a move away from cost-based access charges, and thus a move away from economically rational rates. Therefore, the instant petition should be denied.

Respectfully submitted,

SPRINT CORPORATION



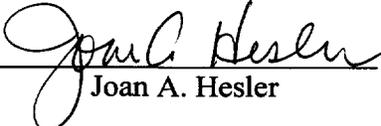
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element confers an unwarranted cost advantage on the ILEC over its IXC intraLATA toll competitors, since the ILEC's intraLATA toll charges would not include the relevant query charge. The competitive imbalance is exacerbated if the ILEC recovers its intraLATA toll query charge from access rate elements assessed on IXCs.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing COMMENTS of Sprint was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 8th day of April, 1999 to the parties on the attached service list:


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