

FCC MAIL SECTION

DA 99-1289

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

In the Matter of)	
)	
Bristol Bay Cellular Partnership)	CWD File No. 98-108
)	
Petition for Extension of Waiver)	
of Section 52.31 Concerning the)	
Deadline for Developing Querying)	
Capability for Local Number)	
Portability)	
)	
Petition for Waiver of Section 52.31)	
Concerning the Deadline for)	
Implementing Service Provider)	
Local Number Portability)	
)	
Telephone Number Portability)	CC Docket No. 95-116

ORDER

Adopted: June 30, 1999

Released: June 30, 1999

By the Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On May 14, 1999, Bristol Bay Cellular Partnership (Bristol Bay) filed a petition seeking: (1) an extension of the waiver granted by the Commercial Wireless Division (Division) that deferred the deadline for Bristol Bay to comply with the querying requirements in section 52.31(b) of the Commission's local number portability (LNP) rules until June 30, 1999;¹ and (2) a waiver that would permit Bristol Bay to delay implementation of service provider LNP beyond June 30, 1999. For the reasons discussed below, we grant Bristol Bay an extension of the waiver of the querying requirement in section 52.31(b). We also dismiss Bristol Bay's request for a waiver to delay implementation of service provider LNP beyond June 30, 1999 because such a waiver is not necessary to achieve the result requested.

¹ See Bristol Bay Cellular Partnership, Petition for Waiver of Section 52.31(b) Concerning Implementation of Long-Term Number Portability, CWD File No. 98-108, *Order*, 14 FCC Rcd 1992 (Com. Wir. Div. 1998) (*Waiver Order*); 47 C.F.R. § 52.31(b).

II. BACKGROUND

2. Section 52.23(b) of the Commission's rules requires all local exchange carriers (LECs) in the top 100 Metropolitan Statistical Areas (MSAs) to offer service provider LNP, which permits a customer to port its telephone number from one carrier to another in the same local calling area, by December 31, 1998.² Outside the top 100 MSAs, LECs must offer service provider LNP within six months of receiving a request from another carrier to do so, provided the request is made on or after January 1, 1999.³ These implementation deadlines do not apply to "covered" commercial mobile radio service (CMRS) providers, who are subject to a different schedule for implementation of service provider LNP.⁴ Section 52.31(b) of the Commission's rules, however, does require all covered CMRS providers to be able to deliver calls from their networks to ported numbers anywhere in the country by December 31, 1998.⁵ To meet this requirement, covered CMRS providers must have the ability to perform database queries to determine the correct routing of a call to a ported number, or must make arrangements to have the query performed by a third party.⁶ For calls originating on a covered CMRS provider's system to points outside the system, the covered CMRS provider is responsible for querying only if it is transferring the call directly to the terminating carrier rather than to an interexchange carrier (IXC).⁷

3. Bristol Bay provides cellular service to fishing villages and other small communities in western Alaska.⁸ On December 30, 1998, we granted Bristol Bay a waiver of

² 47 C.F.R. § 52.23(b). See Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, 11 FCC Rcd. 8352, 8393 (1996) (*LNP First Report and Order*).

³ 47 C.F.R. § 52.23(c).

⁴ "Covered" CMRS providers consist of cellular, broadband personal communications service (PCS), and specialized mobile radio (SMR) providers that offer two-way switched voice telephony with in-network switching capability that allows seamless handoff of calls. See 47 C.F.R. § 52.21(c). Covered CMRS providers must implement service provider LNP in the top 100 MSAs by November 24, 2002, in switches for which another carrier has made a specific request for number portability. See 47 C.F.R. § 52.31(a); Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 98-229, *Memorandum Opinion and Order*, 14 FCC Rcd 3092 (1999) (*CMRS LNP Forbearance Order*). In addition, beginning November 24, 2002, covered CMRS carriers outside the top 100 MSAs must deploy service provider LNP within six months of receipt of a request to do so.

⁵ 47 C.F.R. § 52.31(b). See *LNP First Report and Order*, 11 FCC Rcd at 8439.

⁶ 47 C.F.R. § 52.31(b). See *LNP First Report and Order*, 11 FCC Rcd at 8439.

⁷ Under the Commission's rules, the carrier responsible for performing the database query necessary to route a call to a ported number is the "N-1" carrier, *i.e.*, the carrier in the call routing process immediately preceding the terminating carrier. See Telephone Number Portability, *Second Report and Order*, CC Docket No. 95-116, 12 FCC Rcd 12281, 12323 (1997).

⁸ See Bristol Bay Petition at 4; *Waiver Order*, 14 FCC Rcd at 1993.

the requirement in section 52.31(b) that covered CMRS providers develop querying capability by December 31, 1998.⁹ In that Order, we explained that the only possible circumstance under which Bristol Bay could be responsible for routing calls to ported numbers would be if another carrier in or near Bristol Bay's service area deploys service provider LNP, and Bristol Bay directly routes calls to that carrier.¹⁰ We determined that the earliest date that any LEC in Alaska could be required to implement service provider LNP was June 30, 1999 because: (1) none of the 100 largest MSAs (where LECs must deploy service provider LNP by December 31, 1998) is located in Alaska; and (2) LECs outside the 100 largest MSAs must offer service provider LNP within six months after receiving a request from a competing carrier, provided that the competing carrier submits the request no earlier than January 1, 1999.¹¹ In light of this determination, we concluded that there was no reason to require Bristol Bay to be able to perform database queries before June 30, 1999 and, accordingly, we extended the deadline for Bristol Bay to develop querying capability until June 30, 1999.¹² Because we concluded that Bristol Bay was entitled to a limited extension for the reasons discussed above, we did not reach the issue of whether the technical and financial challenges faced by Bristol Bay in bringing cellular service to remote areas of Alaska warranted an open-ended waiver of the querying requirement in section 52.31(b).¹³

4. In addition, we concluded that Bristol Bay should be entitled to further extensions of the querying deadline as long as there continues to be no carrier in Alaska that: 1) receives calls routed directly from Bristol Bay's system; and 2) is required to deploy service provider LNP pursuant to section 52.23(c) of the Commission's rules based on a competing carrier's request.¹⁴ We stated that we would allow Bristol Bay to renew this extension for additional six month increments, provided that Bristol Bay certifies in each renewal request that the above conditions are met.

III. DISCUSSION

5. In its petition for an extension of our waiver of the querying requirement in section 52.31(b), Bristol Bay certifies that there continues to be no carrier in Alaska that receives calls routed directly from Bristol Bay's system and is required to deploy service

⁹ *Waiver Order*, 14 FCC Rcd 1992.

¹⁰ *Id.* at 1994.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 1994-95.

provider LNP pursuant to section 52.23(c) based on a competing carrier's request.¹⁵ Thus, consistent with our analysis in the *Waiver Order*, as described in Section II *supra*, we find that an extension of our waiver of the querying requirement in section 52.31(b) is warranted.

6. Rather than requiring Bristol Bay to continue to renew this extension every six months, however, we find that it is appropriate to extend the waiver at issue until such time as a carrier in Alaska that receives calls routed directly from Bristol Bay's system receives a request from a competing carrier to deploy service provider LNP pursuant to section 52.23(c). Bristol Bay is required to monitor whether any carrier that receives calls routed directly from Bristol Bay's system receives a request to deploy service provider LNP. If such a request is received, Bristol Bay must comply with the querying requirement in section 52.31(b) prior to the deadline by which the carrier that receives calls routed directly from Bristol Bay's system must implement service provider LNP (*i.e.*, within six months of receipt of the request by the carrier subject to section 52.23(c)). At the time that Bristol Bay becomes aware that such a request has been received, Bristol Bay may ask the Division to consider whether any special technical and financial challenges faced by Bristol Bay in bringing cellular service to remote areas of Alaska warrant additional extension of the waiver of the querying requirement in section 52.31(b).

7. With respect to Bristol Bay's petition to delay its implementation of service provider LNP beyond June 30, 1999, we find that a waiver of Commission rules is not necessary to achieve the result requested. Under section 52.31(a) of the Commission's rules, covered CMRS providers must implement service provider LNP in the top 100 MSAs by November 24, 2002 in switches for which another carrier has made a specific request for number portability and, beginning November 24, 2002, covered CMRS carriers outside the top 100 MSAs must deploy service provider LNP within six months of receipt of a request to do so.¹⁶ Because Bristol Bay is located outside the top 100 MSAs, the earliest date that it could be required to implement service provider LNP is May 24, 2003 (assuming it receives a request for LNP on or before November 24, 2002).

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, and by the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Bristol Bay's petition for extension of the waiver granted in the *Waiver Order* IS GRANTED to the extent indicated above.

9. IT IS FURTHER ORDERED that, pursuant to section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, and by the authority delegated in sections 0.91 and 0.291 of the

¹⁵ Bristol Bay Petition at 5, citing the conditions set forth in *Waiver Order*, 14 FCC Rcd at 1994-5.

¹⁶ See note 4 *supra*.

Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, Bristol Bay's petition for waiver to delay its implementation of service provider LNP beyond June 30, 1999 IS DISMISSED because such a waiver is not necessary to achieve the result requested.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Steven E. Weingarten". The signature is written in a cursive style with a large, prominent "S" and "W".

Steven E. Weingarten
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau