

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

In the Matter of	)	
	)	
Interconnection and Resale Obligations	)	CC Docket No. 94-54
Pertaining to	)	
Commercial Mobile Radio Services	)	
	)	
Forbearance from Applying Provisions of the	)	WT Docket No. 98-100
Communications Act to Wireless	)	
Telecommunications Carriers	)	

To: The Commission

**OPPOSITION**

BellSouth Corporation (“BellSouth”) opposes the Petition for Further Reconsideration filed by MCI WORLDCOM, Inc. (“MCI WorldCom”) on December 9, 1999, in the above-referenced proceeding. For the reasons set forth below, the Commission should reject MCI WorldCom's requests to extend the mandatory resale rule sunset date beyond November 24, 2002, and to require facilities-based wireless carriers to resell CPE and network features for E-911 services.

**I. Commission Should Retain the Resale Sunset**

In 1996 and again last year, the Commission determined that its rule requiring facilities-based Commercial Mobile Radio Service (“CMRS”) providers to allow unrestricted resale of their services (“the resale rule”) should sunset on November 24, 2002.<sup>1</sup> In its petition, MCI WorldCom does not attack the Commission's earlier findings.

---

<sup>1</sup> *In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, CC Docket No. 94-95, *First Report and Order*, 11 FCC Rcd 18455, 18468-69 (1996) (“*First Report and Order*”), *aff'd sub nom. Cellnet Communications v. FCC*, 149 F.3d 429 (6<sup>th</sup> Cir. 1998); *In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, et al.*, CC

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

In the Matter of	)	
	)	
Interconnection and Resale Obligations	)	CC Docket No. 94-54
Pertaining to	)	
Commercial Mobile Radio Services	)	
	)	
Forbearance from Applying Provisions of the	)	WT Docket No. 98-100
Communications Act to Wireless	)	
Telecommunications Carriers	)	

To: The Commission

**OPPOSITION**

BellSouth Corporation (“BellSouth”) opposes the Petition for Further Reconsideration filed by MCI WORLDCOM, Inc. (“MCI WorldCom”) on December 9, 1999, in the above-referenced proceeding. For the reasons set forth below, the Commission should reject MCI WorldCom’s requests to extend the mandatory resale rule sunset date beyond November 24, 2002, and to require facilities-based wireless carriers to resell CPE and network features for E-911 services.

**I. Commission Should Retain the Resale Sunset**

In 1996 and again last year, the Commission determined that its rule requiring facilities-based Commercial Mobile Radio Service (“CMRS”) providers to allow unrestricted resale of their services (“the resale rule”) should sunset on November 24, 2002.<sup>1</sup> In its petition, MCI WorldCom does not attack the Commission’s earlier findings.

---

<sup>1</sup> *In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, CC Docket No. 94-95, *First Report and Order*, 11 FCC Rcd 18455, 18468-69 (1996) (“*First Report and Order*”), *aff’d sub nom. Cellnet Communications v. FCC*, 149 F.3d 429 (6<sup>th</sup> Cir. 1998); *In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, et al.*, CC

When the Commission imposed the CMRS resale rule, it noted that adopting a resale requirement was appropriate “where, due to competitive conditions, its application will confer important benefits, and only for so long as competitive conditions continue to render application of the resale rule necessary.”<sup>2</sup> Then, in the same order, the Commission found that it was appropriate to sunset the resale requirement once “the competitive development of broadband PCS service will obviate the need for a resale rule in the cellular and broadband PCS market sector.”<sup>3</sup> As the Commission anticipated in 1996, personal communications services (“PCS”) have created the substantial competition that justify the Commission’s belief that the rule should sunset in 2002.

The Commission annually issues a report on the status of competition in the wireless industry; the most recent report was issued June 1999.<sup>4</sup> The *Fourth Report* clearly establishes that the CMRS market in 1999 was as competitive as the Commission had hoped it would be back in 1996 when the resale sunset was established. Among the more salient points made by the *Fourth Report* are:

- BTAs with about 74% of the population have at least five mobile telephone providers,<sup>5</sup>
- Mobile telephone subscribership grew from 34 million in January 1996 to greater than 69 million by year-end 1998,<sup>6</sup>

---

Docket No. 94-95, et al., *Memorandum Opinion and Order on Reconsideration*, FCC 99-250 (released Sept. 27, 1999) (“*Resale Order on Recon*”).

<sup>2</sup> *First Report and Order* at 18463.

<sup>3</sup> *Id.* at 18468.

<sup>4</sup> *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 and Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, Fourth Report*, 14 FCC Rcd 10145 (1999) (“*Fourth Report*”).

<sup>5</sup> *Id.* at 10164.

<sup>6</sup> *Id.* at 10152. According to the Cellular Telecommunications Industry Association, as of March 2, 2000, there are over 85-million subscribers to wireless service in the United States. See, <http://www.wow-com.com> (March 2, 2000).

- Performance in the mobile sector is strong, with total service revenues in excess of \$33 billion – an increase of more than 20% from 1997 numbers.<sup>7</sup>

Moreover, in his recent testimony before Congress, Chairman Kennard reiterated the point that competition in mobile services is strong. He stated:

[W]e have seen wireless competition explode across the country....The result is that consumers are benefiting from more choices and lower prices. Indeed, more than three-quarters of American consumers now have a choice of at least five competing mobile phone providers. We have seen a range of other impressive benefits to the consumer. For instance, the average mobile phone subscriber bill dropped from \$61 per month in 1993 to \$40 per month in 1999.<sup>8</sup>

MCI WorldCom does not – and indeed cannot – deny these facts. Because it cannot challenge the underlying wisdom of the Commission’s decision to sunset the resale rule or the fact that the anticipated competition has occurred, MCI WorldCom attempts to tie continuation of the resale rule to long-term number portability (“LNP”) and then baldly asserts “no progress has been made” in regard to wireless carriers’ provision of LNP. Quite simply, MCI WorldCom tries to take the new tact of tying the sunset of the resale rule to the implementation of LNP by raising a series of harms that it alleges will occur if the resale rule is sunset before wireless LNP is implemented. MCI WorldCom’s arguments fail.

First, the Commission has never tied the resale sunset to the presence of wireless LNP. Indeed, the Commission has appropriately treated the two items as separate matters in separate dockets and with distinct rationales. The Commission found that resale was needed in the absence of robust facilities-based wireless competition but that the need for

---

<sup>7</sup> *Fourth Report* at 10152.

<sup>8</sup> Testimony of William E. Kennard, Chairman, Federal Communications Commission, before the Committee of the Budget, United States Senate, on February 10, 2000.

resale would diminish as competition grew between and among facilities-based CMRS providers.

The Commission believed that the conditions for sunset would be achieved by November 24, 2002, and, as noted above, it unquestionably was correct in that assumption, as competition is here and vibrant. It is important to note that the Commission relied on facilities-based carrier to facilities-based carrier competition in establishing the sunset and did not rely on the continuation of competition from resellers. MCI WorldCom offered no evidence to contradict the Commission's findings.

By contrast, the Commission relied on an entirely different logic in imposing LNP on wireless carriers and in extending the implementation date until November 24, 2002. It found that wireless LNP is not currently required in the CMRS market to protect consumers, in part, because there is no consumer demand for number portability.<sup>9</sup>

Among other things, the Commission has found that:

- Number portability is not a priority among wireless customers,
- There is little evidence that wireless customers refuse to change carriers because they cannot port their numbers,
- High churn rate indicates wireless customers do change carriers often even in the absence of number portability.<sup>10</sup>

The Commission also found that there are significant technical issues that must be resolved before wireless carriers can offer LNP.<sup>11</sup> The Commission has directed the industry to resolve those issues and has established a process for monitoring the progress

---

<sup>9</sup> *In the Matter of Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Service Number Portability Obligations and Telephone Number Portability*, WT Docket No. 98-229 and CC Docket No. 95-116, *Memorandum Opinion and Order*, 14 FCC Rcd 3092, 3109 (1999) (“*CMRS LNP Forbearance Order*”).

<sup>10</sup> *Id.* at 3109-10.

<sup>11</sup> *Id.* at 3105-09.

in this area. And, despite MCI WorldCom's cries to the contrary, the Commission – as recently as last week – has found the reasons to delay implementation of wireless LNP and the processes for resolving the technical issues to be sound.<sup>12</sup>

Second, the reasons given by MCI WorldCom to tie the resale sunset date to the LNP implementation schedule are speculative and without merit. MCI WorldCom offers no evidence that the wireless industry is not implementing LNP as fast as is practicable.<sup>13</sup> It merely cites the Commission's earlier decision to forbear that implementation.

Further, MCI WorldCom's cry that there is “no certainty” that wireless carriers will implement LNP by November 24, 2002, has no basis and is belied by the facts as found by the Commission just last week. As the Commission noted, the wireless industry is reporting its progress monthly in public documents available to MCI WorldCom and others. Additionally, the Wireless Telecommunications Bureau has the authority to take such actions as are needed to ensure compliance with the date set by the Commission. MCI WorldCom makes no effort to show why these processes and powers are inadequate to deal with the LNP issue separately from the resale sunset.

Contrary to MCI WorldCom's hyperbole, there is no evidence that carriers will terminate mutually beneficial resale agreements and strand customers after the sunset. BellSouth believes that many carriers see these agreements as viable long-term business opportunities and plan to continue them. And, in any event, the Commission has found

---

<sup>12</sup> *In the Matter of Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability*, WT Docket No. 98-229 and CC Docket No. 95-116, *Order on Reconsideration*, FCC 00-47 (released Feb. 23, 2000) (“*CMRS LNP Forbearance Order on Recon*”).

<sup>13</sup> There is ample evidence that wireless LNP implementation is progressing. Attachment A hereto is the LNP timeline that was presented to the North American

that resale after November 24, 2002, is not needed for a competitive market to exist in mobile services. Second, contrary to MCI WorldCom's unsupported claim, the Commission, as noted above, has found that large numbers of customers change carriers today despite the absence of LNP. MCI WorldCom offers no evidence that this will change between now and November 24, 2002. Because customers do switch service providers today without great inconvenience, there is no reason to retain a resale rule that has outlived its purpose and justification.

The Commission has already found that the extension of wireless LNP until November 24, 2002, will not harm the public interest,<sup>14</sup> and it identified how it will deal with number exhaust issues raised by MCI WorldCom if and when they happen.<sup>15</sup> MCI WorldCom fails to make any attempt to show why these processes are inadequate.

The Commission should reject MCI WorldCom's proposed LNP reporting requirements. Indeed, this request merely repeats an earlier MCI WorldCom request that the Commission require "the top ten wireless carriers to report quarterly to the Commission on their individual progress in implementing LNP."<sup>16</sup> Unfortunately for MCI WorldCom, the Commission last week considered this very argument and specifically rejected it as premature, finding that the wireless industry deserves an

---

Numbering Council ("NANC") by the Wireless Number Portability Subcommittee in November, 1999. Clearly, wireless LNP is moving forward.

<sup>14</sup> *CMRS LNP Forbearance Order* at 3116. The Commission denied petitions for reconsideration of its findings last week in the *CMRS LNP Forbearance Order on Recon.*

<sup>15</sup> *CMRS LNP Forbearance Order on Recon*, ¶¶ 6-14. The Commission reserved the authority to require wireless participation in conservation efforts, *id.* at 4, and has sought comment on whether an accelerated schedule for CMRS LNP implementation is necessary to address specific number exhaust problems. *In the Matter of Numbering Resource Optimization Notice, et al.*, CC Docket No. 99-200, et al., *Notice of Proposed Rulemaking*, 14 FCC Rcd 10322, 10395-96 (1999).

<sup>16</sup> *CMRS LNP Forbearance Order on Recon*, ¶ 14.

opportunity to develop and implement LNP without such additional reporting obligations. The Commission noted further that the wireless industry is submitting monthly reports to NANC on the status of those efforts and that the Wireless Bureau has the authority to establish reporting requirements if they become necessary. The Commission also noted that the Bureau has sufficient authority to direct the carriers to take such actions as are necessary to comply with the deployment schedule.<sup>17</sup>

Not only are the reports to NANC publicly available and therefore accessible to MCI WorldCom representatives,<sup>18</sup> but MCI WorldCom actively participates in the LNP meetings and conference calls of NANC.<sup>19</sup> If it has specific implementation issues for the Bureau to consider with regard to LNP, then it should raise them using the appropriate procedures. That is why the Commission was correct in rejecting MCI WorldCom's request in the *CMRS LNP Forbearance Order on Recon*, and why it should reject the same request here. Indeed, the resources of the wireless industry will be better utilized in the planning and deployment of LNP rather than the production of needless reports to mollify MCI WorldCom.

## **II. The Commission Should Not Mandate Resale Of CPE For E-911**

The Commission eliminated CPE and CPE in bundled packages from the scope of the resale rule. It found that there was no evidence in the record that facilities-based carriers could offer packages with artificially high prices for the service component and cross-subsidize the CPE component with revenues from the service. It found further that:

Nor is there evidence that resellers are prevented from obtaining CPE from sources other than CMRS carriers or from negotiating with

---

<sup>17</sup> *Id.* ¶ 15.

<sup>18</sup> *Id.* ¶ 15, n. 44.

<sup>19</sup> *See*, <http://npac.com/cmas>.

equipment manufacturers for discounted prices. Smaller resellers have alternatives to obtain CPE volume discounts comparable to those available to large resellers and facilities-based carriers. For example, firms in other industries have formed buying consortia.<sup>20</sup>

Despite these express findings, MCI WorldCom asks the Commission to reestablish a resale obligation for CPE if a carrier employs an enhanced handset or combination enhanced handset/network solution for E-911. Its sole basis for this request is its claim that manufacturers *may* be pressured to fill orders for these new sets for their larger wireless carrier customers before they fill orders from resellers.

This is rank speculation at best. It ignores the fact that manufacturers have the economic incentive to meet the demands for all of their customers. It also ignores the fact – as found by the Commission – that resellers can join together in buying consortia and thus gain the economic power to command the same volume discounts and availability as larger competitors.<sup>21</sup>

The claim also conveniently ignores MCI WorldCom's size and resources. In its application to acquire Sprint, MCI WorldCom touts itself as a “global leader” in communications services.<sup>22</sup> It operates in 65 countries in the Americas, Europe and the Asia-Pacific regions. MCI WorldCom says it is a “premier” provider of facilities-based

---

<sup>20</sup> *Resale Order on Recon*, ¶ 29.

<sup>21</sup> *Id.*

<sup>22</sup> *Application of Sprint Corp. and MCI WorldCom, Inc. for Consent to Transfer Control of Corporations Holding Commission Licenses and Authorizations*, filed November 17, 1999, at 4. See *In re Application of Sprint Corporation, Transferor, and MCI WorldCom, Inc., Transferee for Control to Transfer Control of Corporations Holding Commission Licenses and Authorizations Pursuant to Section 214 and 310(d) of the Communications Act and Parts 1, 21, 24, 25, 63, 73, 78, 90 and 101 of the Commission's Rules*, CC Docket No. 99-333.

and fully integrated local, long-distance, international, and Internet services. It has \$34 billion in annual revenues.<sup>23</sup>

Further, MCI WorldCom omits mention of its proposed merger with Sprint, which it says it wants to consummate this year, well before March 2002. The combined company will have annualized revenues in excess of \$50 billion.<sup>24</sup> In its application for transfer of control of Sprint to MCI WorldCom, MCI WorldCom lauds Sprint PCS as a leader in the wireless industry with nationwide coverage, more than 5 million customers in just five years of operation.<sup>25</sup> It stresses that Sprint is an “industry leader in introducing new technologies and services.”<sup>26</sup> It simply is implausible that manufacturers of wireless handsets would overlook MCI WorldCom/Sprint.

It is BellSouth’s understanding from discussions with various vendors that once manufacturers are able to include Phase II location capabilities in new handsets, the capabilities will be integrated into the majority of new handsets. Resellers should have adequate time and resources to obtain these handsets as they have obtained other innovations in handsets in the past. But in any event, given that the facilities-based carriers – and not resellers – carry a duty to meet the Commission-imposed ALI handset deployment schedule,<sup>27</sup> the Commission should not attempt to control or limit the distribution of ALI handsets to facilities-based carriers. Such controls could jeopardize their ability to meet those requirements.

---

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 3-4

<sup>25</sup> *Id.* at 62.

<sup>26</sup> *Id.*

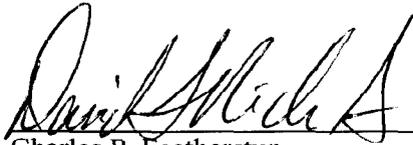
<sup>27</sup> *In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, RM-8143, *Third Report and Order*, 14 FCC Rcd 17388 (1999).

**CONCLUSION**

For the reasons stated above, the Commission should reject MCI WorldCom's  
Petition for Further Reconsideration.

Respectfully submitted,

BELLSOUTH CORPORATION



Charles P. Featherstun

David G. Richards

1155 Peachtree Street, N.E., Suite 1800

Atlanta, GA 30309-3610

(404) 249-3855

Its Attorneys

March 2, 2000

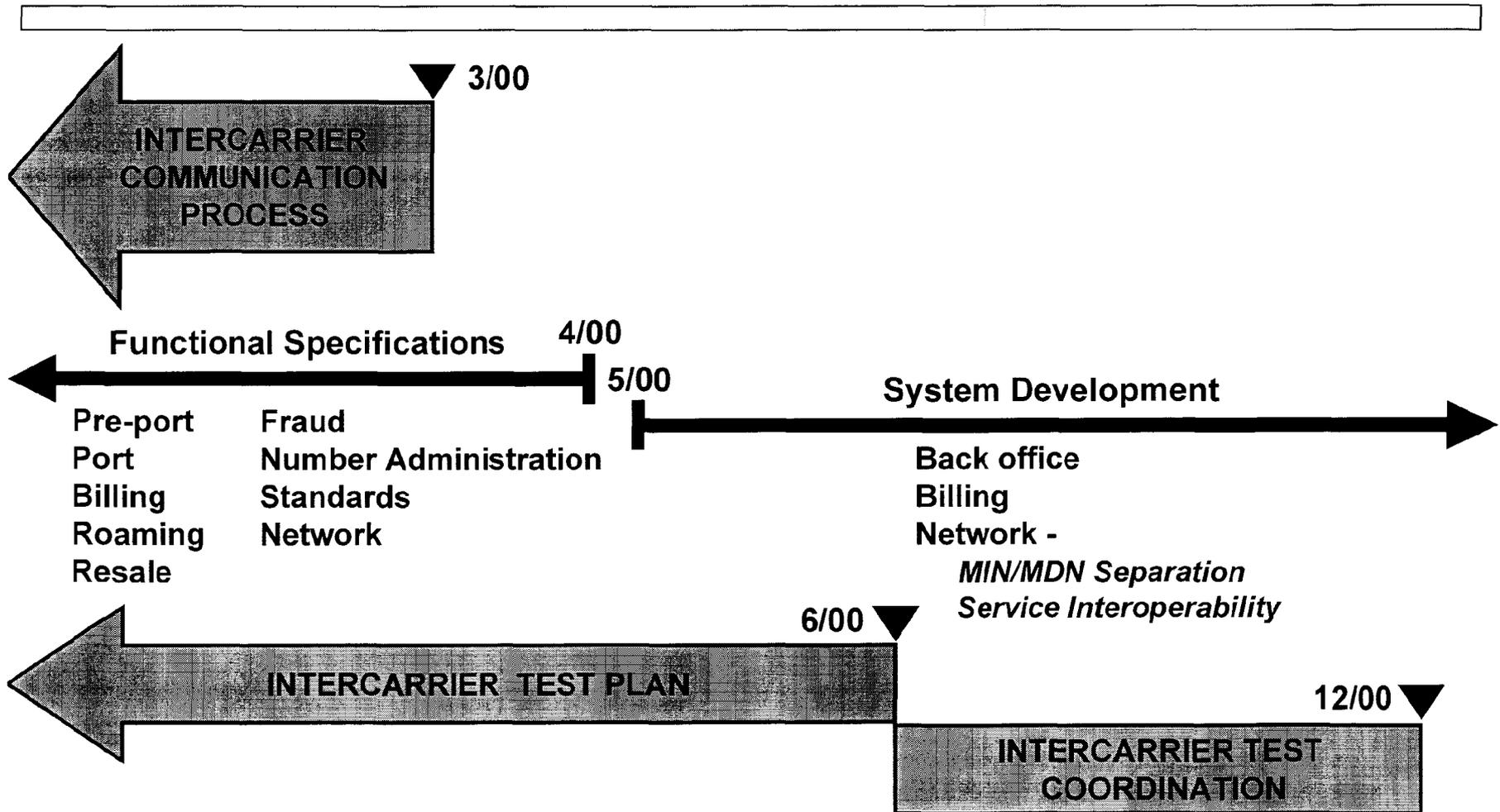
# Wireless Number Portability Timeline - Phase 2

INDUSTRY

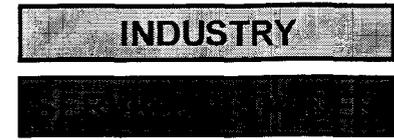
SERVICE

2000

JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

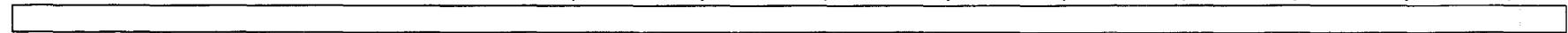


# Wireless Number Portability Timeline - Phase 2



2001

JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

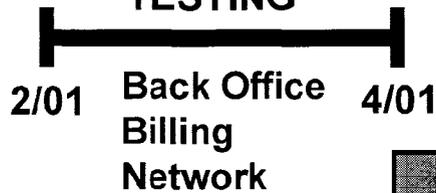


SYSTEM  
DEVELOPMENT



1/01

TESTING



2/01 Back Office Billing Network 4/01



NPAC TURN UP TESTING

5/01

9/01

9/01 ▼



INTERCARRIER TESTING LOGISTICS

9/01 ▼



INTERCARRIER TESTING

10/01

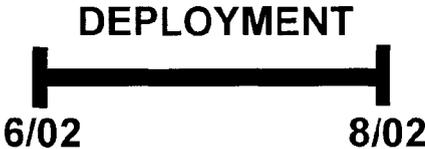
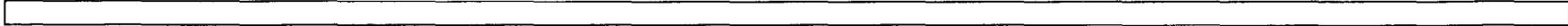


# Wireless Number Portability Timeline - Phase 2



2002

JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC



FINAL  
ADJUSTMENTS



11/24/2002

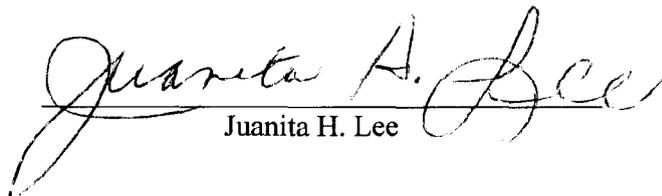
**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 2<sup>nd</sup> day of March 2000 served the following parties to this action with a copy of the foregoing **OPPOSITION** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

Magalie Roman Salas, Secretary  
Federal Communications Commission  
The Portals, 445 Twelfth Street, S. W.  
Room TW-A35  
Washington, D. C. 20554

Anne F. La Lena  
MCI WorldCom, Inc.  
1801 Pennsylvania Avenue, N.W.  
Washington, D. C. 20006

International Transcription Services  
The Portals, 445 12<sup>th</sup> Street, S. W.  
Suite CY-B400  
Washington, D.C. 20554

  
\_\_\_\_\_  
Juanita H. Lee