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This will ROCK
the cell phone Industry.

READ THIS —
All the Office of
Public Counsels will
receive it (and you)
by Tues —
you are in violation
of the 1996 Telecom Act.

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**Peggy Arvanitas**

May 11,2001

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

| | | |
|---|---|---|
| In The Matter Of | ) | |
| | ) | CC Docket 99-200 |
| Numbering Resource Optimization | ) | |

COMMENTS AND CLARIFICATION OF PEGGY ARVANITAS

Being the only consumer on this docket, I am amused by the "amnesia" of the cellular phone industry from docket to docket and year to year. So I am taking this opportunity to reaffirm the FCC's position of utilization thresholds and remind CTIA that they volunteered utilization thresholds for their Industry so the FCC would allow them the CMRS forbearance on February 9 1999. I am also asking the FCC for clarification of the language present in both the FCC 95-116 orders dealing with portability/forbearance, and the FCC orders 00-104 and 00-429 that are contradictory and vague. I also want to give another view of what I feel is an incredible oversight and misunderstanding by the FCC's part that might allow the continual forbearance of the CMRS providers from porting. That the language in the forbearance order was not "competitively neutral" in violation of the 1996 Telecom Act. And the requirement for roaming first, then porting as the CMRS providers are stating in this docket was not the intent or the language of that order.

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

The cellular Industry has made numerous claims that utilization thresholds are not reliable. "The utilization threshold system is a new and untested conservation measure." [1] "Verizon wireless believes that months to exhaust, standing alone, would be a better measure of need than any arbitrary threshold." [2]

Actually, the telephone Industry used utilization thresholds to receive numbers from Bellcore, prior to 1995. Then Bellcore made the change to months to exhaust, which is a forward projection of assumed need. As indicated in docket 95-116, Feb 9, 2000 "Reconsideration" paragraph 44:

> "..In 1984, the entire North American Numbering Plan had 125 area codes; by December 1994, 134 total area codes had been assigned, which was only an additional nine new area codes in the space of ten years. Within the next four years, the total number of area code assigned nearly doubled, so that as of December 1998, 248 geographical area codes had been assigned, of which 207 serve portions of the United States. Currently, 50 area codes throughout the country are in jeopardy."

Actually, it is amusing that CTIA is challenging utilization thresholds. In FCC order 99-19, the Forbearance Order, paragraph 46, CTIA is quoted as saying:

> "Specifically, CTIA proposes that the Commission establish minimum number utilization thresholds, by RATE center..." "...further, CTIA proposed a minimum rate of 60% which would increase to 65% July 1, 2000 and 70% on July 1, 2001."

That the FCC took the CMRS providers up on their offer should come as no surprise to the Industry. That was the trade-off for the November 23, 2002 forbearance.

As a consumer, I refuse to believe that we are in jeopardy relief in over seven different area codes in Florida because everyone has a cell phone, fax line and a pager. In our 981444-tp PSC of Florida docket, aggregate NPA data was reviewed and many carrier

1) CTIA June 9,2000 Comments FCC docket 99-200
2) Verizon Wireless May 19,2000 Comments FCC docket 99-200

classes had less than 50% utilization thresholds, and that was without audit review. I believe the change from utilization thresholds to months to exhaust affected the nationwide distribution of numbers. Once again, NANPA made significant changes with the public's resources without public, State PUC or FCC input.

## LNP DEADLINES FOR CMRS PROVIDERS

On July 2, 1996 the Commission released it's First Report and Order in number Portability docket 95-116 which promulgated rules and deployment schedules for the implementation of number portability by LEC's and certain broadband CMRS providers. Siting authority from Sections 1,2,4(i) and 332 of the Act , covered CMRS providers were required to have the "capability" to provide ported numbers through their networks to port numbers anywhere in the USA by December 31, 1998, for wireless to wireline carriers. In addition, June 30,1999 was to be the deadline for CMRS providers from wireless to wireless within the top 100 MSA's for local number portability "including the ability to support roaming." [3]

In 1997, CTIA filed a petition to the FCC for a "section 10" forbearance. The cellular Industry wanted to wait unitl the end of the 5 year buildout of the PCS cellular Industry. The deadline was extended from June 30,1999 until March 31, 2000. Then another extension was given for CMRS providers to be LNP capable in the top 100 MSA's by November 24, 2002.

It is interesting, that since the requirement for pooling is "being LNP capable and receiving numbers in 1000 blocks, that CMRS providers are saying they are still not LNP capable, and that they are "working on" MIN/MDN separation for roaming.

3) First Report and Order 95-116, paragraph 166

In Docket 95-116, GTE filed an ex parte paper concerning MIN/MDN. In their words:

"The treatment of MIN andMDN as separate parameters occurred long before wireless number portability (WNP), as evidenced by ANSI-41 revision C. The Industry accepted the use of MIN/MDN separation in 1994, and the application of the separation paradigm to WNP is therefore not arbitrary." 4

So, seven years ago, the Industry accepted the use of this cellular identification which must be supplanted in addition to being LNP capable, as they have widened the field of LNP capability to include an enhanced carrier feature such as "roaming." For seven years the cellular phone Industry has been "working" on the technology, and I will show it is not because of the MIN/MDN problems as they retort. I will also show that portability orders are inconsistent and vague, that the requirements and deadlines are compromised because of the past ineffective FCC. And because of this, State PUC's have ineffective allocation of numbers in 10,000 block and 1000 blocks in the same NPA's. CMRS providers were given additional favors to "enhance carrier networks" for roaming. This is not "competitively neutral" in violation of the 1996 Telecom Act. CLEC's who have upgraded their networks and are LNP capable are actually punished by receiving only 1000 block numbers in pooling trials.

ARE WE WAITING FOR ROAMING OR LNP?

The FCC gave a deadline of June 30,1999 for CMRS providers to be LNP capable in the top 100 MSA's "including the ability to support roaming." CTIA in their 1998 FCC 95-116 filing said:

"If network buildout is allowed to continue, this will allow providing telecommunicating services at a lower cost." ( paragraph 24)

According to the Forbearance Order, LNP could not be done without nationwide roaming in place first, with the cause being the MIN/MDN separation they had

4) GTE docket 95-116 Nov. 13, 1998 ex parte

accepted in 1994. Here, we have changes in our intent to provide LNP,that allows customers to change carriers while at their same location . Roaming does not allow you to better port numbers. It is an enhanced feature for the cellular Industry. The requirement from the First Order (1997) and the Forbearance Order(1999) changed. The NANC LNP Architecture and Administrative Plan, April 14, 1998 has their own unique interpretation:

"The FCC added in the Second Report and Order that wireless nationwide roaming must be maintained."

Obviously, The Cellular Industry has their own priority: roaming over porting.

OTHER COUNTRIES MUST COMPLETE ROAMING SIMULTANEOUS TO USA

The NANC- LNP Administration Working Group- Second Report on wireless-wireline Integration- February 1999:

"Roaming is an integral part of wireless service. It allows the wireless carrier to provide service for subscribers when they are outside their home system."

In Section 4 , it goes on to detail services which rely on MIN/MDN information:

1) automatic callback
2) E911 calls
3) Toll billing by interexchange carriers
4) Billing records

" The impact of MIN/MDN not functioning properly "affects any area in which a subscriber can roam. This includes US, Canada, Puerto Rico, Us Virgin Island, Guam... Consequently, all areas would have to be simultaneously support the signaling enhancements to avoid this problem." 5

So, we are not just waiting on CMRS providers to be LNP capable so they can pool. The MIN/MDN they are "working" on really sustains other enhanced features for the Cellular phone industry , which was not noted as the correct explanation in the 95-116

5) NANC 2nd Report Feb/1999 section 4.1.6

Forbearance order. And does the FCC know the Industry needs simultaneous roaming in foreign countries before the top 100 MSA's will be able to port numbers? Who is co-ordinating this?

NOT JUST LNP CAPABLE IN THE TOP 100 MSA'S, EITHER!

If the FCC is getting nervous reading this, it gets worse. Portability orders required the cellular industry to be LNP capable in the top 100 MSA's and be able to sustain roaming. However, according to Cingular Wireless:

> "Because of roaming, all covered CMRS carriers' switches must incorporate this technological core, including those in RURAL markets totally OUTSIDE the top 100 MSA's, where there may never be any requests for number portability or any need to pool numbers."[6]

Do you think States and Consumers are going to wait while every rural carrier has OSS upgrades and MIN/MDN technology on their switches before we port numbers In the top 100 MSA's? Did the wireline carriers make the FCC wait while everyone in the USA was LNP capable before they ported their first number? Then the Forbearance Order of FCC docket 95-116 is not "competitively neutral" and in violation of the 1996 Telecom Act.

CHURNING=PORTING?

There might be another reason why the Cellular Industry is "working" on being LNP capable. According to the NANC Local Number Portability Working Group:

> "Recent statistics indicate that wireline porting volumes are nearly 500,000 per month. Current CMRS disconnect rates are reported at 2.3% a month or 28% per year. If there was a 1:1 relationship between churn and porting requests...the volume of Porting could reach 40 million annually."

And the problem just isn't customer porting numbers after the November 24, 2002

6) Cingular Wireless Reply comments FCC 99-200 3/2001 pg 6

forbearance period. The Minority Opinion by Wordcom in this same report talks about "resellers" porting numbers to different carriers:

> "Some underlying wireless network service providers may elect to end their resale arrangements when their resale contracts expire Nov. 24 2002."
> "Implementation of wireless LNP may be too late to accommodate some resellers that need to move their customer base to a new underlying wireless network provider. There is a finite window between the arrival of wireless LNP and the expiration of wireless resale contracts."

What we have then, is an awful lot of deadlines occurring at the same time like a train collision: resale contract expiration, LNP capability for top 100 MSA's, roaming for all the USA and some foreign countries...and let's not forget pooling software must be in place, also. But I'm sure the FCC has a plan. But wait, another excuse for a CMRS forbearance is looming in the horizon!

MANUAL NPAC ADMINISTRATOR INTERFACES AND PORTING

The NANC 2nd report discussed another problem. This was filed on Dec 2000 in The docket FCC 99-200:

> "As stated in section 3.3.6 , communication with the NPAC is critical to number portability and the maintainence of the regional Number Portability Data Base.."
> "...the LTI (low tech interface) provides very basic access to the NPAC's web based Graphical User Interface(GRI) system. Information for porting "events" is keyed manually. There is NO MECHANIZED INTERFACE between order entry and the NPAC."

Lovely, are you prepared for four times the porting volume for the NPAC administrators? It is my understanding that there are several regions of NPAC administrators. Who is co-ordinating this? Who is going to PAY for this? Will this be another end-user cost, what should be the cost of doing business is automation, and we are in the 21st century, are we not?

## VAGUE AND THEREFORE VOIDABLE FCC ORDERS

Three years of portability orders ( FCC docket 95-116) including the Forbearance Order give the deadline for CMRS portability three different ways:

BY November 24, 2002

UNTIL November 24,2002

ON November 24,2002.

Looking these three very different words up in the Webster Dictionary gave me three different explanations:

BY means "no later than"

UNTIL means "up to the time of"

ON means " during or at the time of"

As you can see, how can the FCC enforce orders when the language is vague? California PUC went through this when the same Portability orders were vague as to The wireline timetables for LNP . They had a pooling trial, and wireline carriers did not have to be LNP capable. This was also occurring in Florida, even though some of these carriers were charging portability charges on consumer bills by filing a federal tariff nationally even though some individual states weren't LNP capable on the switches. The same portability order said you could not charge if you were not LNP capable, but this is a cat and mouse game the FCC has left the States to play with the carriers. I would expect and demand an expedited Order from the FCC to clarify this vague and unenforcable language for the CMRS deadline immediately.

PORTABILITY ORDERS (fcc 95-116) CONTRADICT FCC 00-104 AND FCC 00-429

In the Number conservation docket 99-200, the FCC in March 2000 and December 2000 The FCC issued two orders discussing CMRS provider deadline in reguards to LNP capability so they could participate in pooling with the wireline carriers. In FCC Order 00-104, it said that covered CMRS providers would have to pool at the deadline, which is November 24, 2002. paragraph 129 says " as CMRS carriers are LNP capable, they must pool." FCC Order 00-429 further re-iterated this deadline and went one step further in paragraph 47: "based on the record before us, we decline a transition period between pooling and LNP capability..."

Unfortunately, the same FCC people who wrote the Portability Order did not write the Number Conservation Orders discussed above. And since we are now looking at a voidable order because the requirements for roaming defined by the INC run NANC (this one's for you, Trina) would seem to make the FCC's understanding of roaming all but impossible, I am asking FCC for an expedited order of clarification in both dockets defining roaming and LNP capablilty for CMRS providers before CTIA does another apologetic forbearance request again.

CLINTON'S "WHAT IS.....IS " A LA THE CELLULAR PHONE INDUSTRY

The CMRS providers are being very vague in their filings about LNP capable language. LNP or local number portability requires operational support system (OSS) upgrades. This could be Unix, Linux, Redhat, or NT. Most of the CMRS providers already have this on their switches. You see, this most notable "Lone Consumer" who has done now

13 FCC filings (and over 3 years of Florida PSC filings) took a job as a cellular phone salesman for a short time from one of the carriers so she could understand the CMRS terminology to complete this filing. Yes, Peggy Arvanitas was a "mole." So now, I feel confident to tell you this next section with the brevity of an expert.

Most of the CMRS providers are LNP capable now. You see, OSS upgrades don't just "help CMRS providers" port or pool, OSS upgrades are a "back office billing feature." Take for example your cell phone. You want to know how many minutes you've used. You press a button, and your CMRS provider "downloads" this info to you on your cell phone. This CAN NOT be done WITHOUT an OSS upgrade. Especially pre-paid CMRS providers. How could they cut off your phone if you pay $65 plus tax at the beginning of the month and you go over your "anytime" minute usage? But already, former President Clinton's "what is ...is" has now trickled into the minds of the cellular industry. As Cingular Wireless so notably put it in their FCC 99-200 docket filing:

> " ...it is commonly said that to participate in pooling, wireless carriers must be LNP capable. It would be more correct to say that a wireless carrier must have the technology base for LNP, but need not have all the LNP specific OSS's in place, and need not actually provideLNP, in order to participate in pooling." 7

I am now asking for an expedited ruling of clarification from the FCC to define what equipment is required to qualify under this paltry cat and mouse game the CMRS providers are playing with the states. They are hiding behind the "shroud of LNP" to NOT POOL. And Texas PUC said it best in their filing:

> "States, such as California and Maine have found that the number pool could increase by as much as 40% if CMRS providers were required to pool."

7) Cingular Wireless March 2001 FCC docket 99-200

"Had CMRS providers not already been granted LNP postponements, they could help maximize the benefits of pooling in Texas and elsewhere." [8]

## CONCLUSION

In the December 2000 NANC filing, the Timeline-Phase II of the timetable says that CMRS providers need January 2001 to May 2002 to do "inter carrier" testing. The Wireline carriers were not given that long, I believe the FCC needs to do an expedited ruling and move up the LNP deadline so that it does not coincide with the "holiday period" as Cingular Wireless most notably called to our attention along with CTIA. We would not want all these deadlines to be simultaneous. Then, by November 2002, CMRS providers will be included in State (or National Pooling trials, if we can ever decide on an administrator) pooling trials.

From my experience in Florida PSC pooling trials, there is a reservation and block identification period that occurs first so the CMRS Industry wouldn't initiate actual block donations during the holiday period. The reservation and identification period is at least three months.

We have had enough delays for the Cellular Phone Industry not to port, and therefore pool. The cost savings these ILEC owned cell phone companies are saving is minimum 20% a year over wireline carriers, and this is not an "equitable distribution of numbers"as per the 1996 Telecom Act. CMRS providers cannot continue to have LNP excuses to not pool, as they are exhausting the NANP with inefficient number allocation over wireline carriers.

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8) Texas PUC Comments 2/2001 FCC 99-200