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

In the Matter of	)	
	)	
Petition Pursuant to 47 U.S.C. 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation	)))	WT Docket No.01-184
	)	

COMMENTS OF AT&T WIRELESS SERVICES, INC.
IN SUPPORT OF VERIZON WIRELESS' PETITION

AT&T Wireless Services, Inc. ("AWS") hereby respectfully submits its comments in support of the Petition of Verizon Wireless ("Verizon") for partial forbearance from the Commission's rules requiring commercial mobile radio service ("CMRS") carriers to provide local number portability ("LNP") or wireless number portability ("WNP").[1] AWS urges the Commission to conclude that forbearance from WNP meets requirements of Section 10 of the Communications Act of 1934, as amended ("Act"),[2] and to grant Verizon's petition.

I. INTRODUCTION AND SUMMARY

On February 9, 1999, the Commission established November 24, 2002 as the date by which wireless carriers must be WNP capable.[3] Recently, the Commission decided that wireless carriers would have to implement pooling simultaneously with WNP on November 24, 2002, and

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[1] *WTB Seeks Comment on Wireless LNP Forbearance Petition Filed by Verizon Wireless*, DA 01-1872, WT Docket No.01-184, Public Notice (rel. Aug.7, 2001);*Verizon Wireless' Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, WT Docket No. 01-184 (July 26, 2001) ("Verizon Petition").

[2] 47 U.S.C. § 160.

[3] *Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligation,* FCC 99-19, WT Docket No.98-229, Memorandum Opinion and Order, 13 FCC Rcd 3092 (1999) ("*CTIA Forbearance Order*"). *See also* 47 CFR § 52.31(a) (CMRS providers must be LNP capable by November 24, 2002).

denied any transition period.[4] In establishing these requirements, the Commission noted that WNP will promote CMRS competition and provide carriers the technical capability to participate in number pooling, while pooling will facilitate number resource optimization.[5] AWS fully supports the Commission's goal of improving number utilization and is committed to implementation of *number pooling* and the WNP network architecture necessary to support pooling by the November 2002 timeframe. However, AWS does not believe that *WNP* is similarly necessary to achieve the Commission's stated goals. Indeed, the Commission noted two years ago in 1999 when it granted forbearance of WNP until November 2002 that WNP met the Section 10 forbearance criteria because it was not essential at that time for ensuring just and reasonable CMRS rates, was not necessary for protecting consumers, and forbearance from WNP requirements would serve the public interest.[6] Nothing has changed within the past two years with respect to these findings and the Commission's conclusions are equally, if not more, true today.

Given that the requirement for simultaneous implementation of pooling and porting was only recently imposed, and that the Commission has found in the past that staggered or phased-in

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[4] *Matter of Numbering Resource Optimization*, FCC 00-429, CC Docket No.99-200, CC Docket No,.96-98, Second Report and Order, Order on Reconsideration in CC Docket No.96-98 and CC Docket No.99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 16 FCC Rcd 306 (2000) ("*NRO Second Report and Order*") at paras. 47-51; 47 CFR § 52.20(b) (carriers capable of providing LNP must participate in thousands block number pooling where it is implemented and consistent with the number pooling framework established by the Commission). Several carriers petitioned the Commission for reconsideration of its finding that wireless carriers must implement number pooling by November 2002. *See, e.g., Matter of Numbering Resource Optimization*, CC Docket No.99-200, Petition for Reconsideration of the Cellular Telecommunications and Internet Association, (March 12, 2001); Cingular Wireless LLC Petition for Reconsideration of the Second Report and Order and Order and Reconsideration (March 12, 2001); Sprint Corporation Petition for Partial Reconsideration and Clarification (March 12, 2001) (collectively, "NRO Reconsideration Petitions"). These petitions are still pending.

[5] *CTIA Forbearance Order* at para. 34; *NRO Second Report and Order* at para. 49.

[6] *See CTIA Forbearance Order*.

implementation of technologies such as number portability and pooling is critical to network reliability,[7] the Commission and the industry should concentrate their immediate attention on implementation of number pooling for wireless carriers, and not on simultaneously implementing WNP with pooling. Number pooling capability by CMRS carriers is absolutely critical in order to address the significant numbering resource crisis in the country, to ensure that CMRS carriers and customers have access to an adequate supply of numbers, and to promote CMRS competition and the public interest.[8] Implementation of WNP, in contrast, is not essential because lack of WNP will not deprive customers or carriers of numbers or adversely affect competition or the public interest. In fact, the opposite is true: there is evidence on the record cautioning that hasty implementation of WNP will pose risks to network reliability and customer service.[9] Attempting to implement pooling and porting functions at the same time creates difficulties for successful implementation of either capability, and diverts the energy, time, and resources of carriers from concentrating on the critical function of number pooling and other regulatory mandates.

Moreover, the Commission requirement to mandate CMRS carriers to implement number pooling and WNP simultaneously by November 2002 was based in part on the FCC's erroneous conclusion that full WNP capability was a prerequisite to number pooling. This conclusion was likely precipitated by the industry's failure to delineate the aspects of number portability

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[7] *See Telephone Number Portability*, CC Docket No.95-116, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236 at para. 83 (1997) ("*First LNP Reconsideration Order*"); and *Numbering Resource Optimization,* CC Docket No.99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 at para. 159 (2000) ("*NRO First Report and Order*") (finding that a staggered schedule for wireline pooling was necessary).

[8] *NRO Second Report and Order* at paras. 49-51 and *CTIA Forbearance Order* at para. 48.

capability that were a prerequisite to number pooling. Rather than stating precisely that it was the technology *supporting* LNP, or the location routing number ("LRN") architecture and the separation of mobile identification number/ mobile directory number ("MIN/MDN") in the wireless network**,** which is necessary to employ number pooling, carriers used the shorthand term "LNP-capable" – terminology that the FCC adopted in its orders on wireless pooling.[10] Thus, although the implementation of the LRN architecture and MIN/MDN separation in the wireless network is a prerequisite for pooling, WNP is not.[11] Given the importance of the numbering crisis and pooling's significance for promotion of CMRS competition and the public interest, the Commission should conclude that the implementation of WNP is unnecessary now, or at any time in the future, and grant Verizon's petition.

II. VERIZON'S PETITION DEMONSTRATES THAT ALL THREE SECTION 10 FORBEARANCE CRITERIA ARE MET

Section 10 of the Act requires the Commission to forbear from applying its rules when three statutory criteria are satisfied: (1) the rule is determined not to be necessary to ensure just and reasonable rates; (2) forbearance from the rule will not harm consumers; and (3) forbearance will be consistent with the public interest.[12] Pursuant to Section 10 of the Act, the Commission

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[9] *See, e.g.*, NRO Reconsideration Petitions filed by Sprint, Cingular Wireless, and CTIA, and *see NRO Second Report and Order*, at fn.127, *citing* comments filed to the *NRO FNPRM*, CC Docket No.99-200 (AT&T Comments at 8-9; BellSouth Comments at 10; Bell Atlantic Comments at 8-9).

[10] *See, e.g., NRO First Report and Order* at para. 129 and *NRO Second Report and Order* at para. 50.

[11] While the industry terminology was not as precise as it should have been, these terms were used in good faith and were not an attempt to delay the implementation of number pooling. As has been explained before and is set forth in Verizon's petition, it is the implementation of the LRN architecture and in particular the split of MIN and MDN that is the most technically challenging part of WNP. For this reason it would have been extremely difficult (if not impossible) for the implementation of the LRN architecture to be accelerated such that wireless carriers could have participated in pooling sooner.

[12] *See* 47 U.S.C. § 160(a) (requiring the Commission to forbear from applying its rules when statutory criteria are met).

two years ago determined that WNP was not necessary to prevent unjust or unreasonable charges by CMRS carriers, that there was no evidence that WNP was necessary to prevent affirmative harm to consumers, and that temporary forbearance until November 2002 would be consistent with the public interest.[13] The conditions that required the Commission's forbearance under Section 10 of the Act two years ago apply with even greater force today. Thus, the Commission should reaffirm that Section 10 criteria for forbearance have been met with regard to implementation of WNP.

A. It Is Indisputable That WNP Is Unnecessary to Ensure Just and Reasonable Rates

The Commission determined in 1999 that CMRS rates were steadily decreasing, in part due to the increased entry of CMRS competitors,[14] and thus WNP would not be necessary to ensure that CMRS rates be just and reasonable. Specifically, the Commission noted that "LNP would not play a direct role in ensuring that a carrier's rates are just and reasonable," and that "its impact on carrier rates would flow from its impact in promoting competition in the wireless services market," but that, based on current dynamics of the CMRS market, the Commission did "not perceive LNP requirements as necessary to promote such competition."[15]

Since the Commission's determination in 1999, CMRS prices have continued to fall steadily, independent of WNP or other Commission intervention. The price of mobile service fell 12.3% in the year 2000 alone.[16] Further, average CMRS rates have declined 23.6% since

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[13] *CTIA Forbearance Order*

[14] *Id.* at para. 19.

[15] *Id.*

[16] Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, FCC 01-192, Sixth Report (2001) ("*Sixth CMRS Report*") at 6.

1999.[17] Ironically, within this same time frame, local rates for wireline services have actually increased by 9.9%, even though wireline carriers have been required to implement LNP.[18] Not only have wireless rates continued to decline, but, as is explained below, the overall level of competition in the wireless market has continued to increase. These facts overwhelmingly demonstrate that there is even more reason now than in 1999 to conclude that WNP is not necessary to prevent unjust or unreasonable CMRS charges.

B. It Is Indisputable That WNP Is Unnecessary to Protect Consumers

The Commission further concluded in 1999 that implementation of WNP at that time was *not* necessary "to prevent affirmative harm to consumers."[19] In so concluding, the Commission noted that the "record indicates that the demand for wireless number portability among CMRS consumers is currently low and that consumers are more concerned about competition in other areas such as price and service quality."[20] This continues to be true today. As explained below, there is no new evidence to indicate that wireless consumers currently seek WNP and instead significant evidence that customers continue to value other qualities such as competitive rates and service in determining whether to change wireless carriers.

Moreover, competitive choice has flourished even without the presence of WNP.[21] The Commission noted in its *Sixth CMRS Report* that approximately 75% of the United States

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[17] *See, e.g.,* Bureau of Labor Statistics, Consumer Price Index – All Urban Consumers, Cellular Telephone Services, at http://stats.bls.gov/cpihome.htm (comparing February 1999 CPI with May 2001 CPI).

[18] Bureau of Labor Statistics, Consumer Price Index – All Urban Consumers, Telephone Services-Local Charges, at http://stats.bls.gov/cpihome.htm (comparing February 1999 CPI with May 2001 CPI).

[19] *CTIA Forbearance Order* at para. 22.

[20] *CTIA Forbearance Order* at para. 22.

[21] *Sixth CMRS Report* at 4-5. Moreover, WNP was not mentioned as a driving force or reason for the growth in wireless penetration in Europe in the *Sixth CMRS Report*. Instead, the report states that the "addition of prepaid subscriptions appears to have been the major driver of mobile subscriber growth in

population now live in areas in which there is a choice of five or more CMRS carriers.[22] The FCC has found that "continued downward pricing trends, churn, and continued expansion of mobile networks into new and existing markets demonstrates a high level of competition for mobile telephony customers.[23] Moreover, there is no indication that WNP is needed to promote the competition. Wireless customers switch freely between carriers today (even without WNP),[24] causing fairly high churn rates. Statistics indicate that anywhere from 20% to 30% of customers switched CMRS carriers during the year 2000.[25] Ultimately, the high levels of churn in the industry demonstrate that CMRS customers are not currently constrained from switching wireless carriers due to lack of WNP.

C. Forbearance from Requiring WNP Will Be Consistent with the Public Interest

The Commission also recognized in 1999 that forbearing from requiring CMRS carriers to implement WNP will be in the public interest on competitive grounds because requiring wireless carriers to implement WNP would "divert available financial and technical resources from other initiatives that could have a more immediate impact on competition, such as network buildout."[26] At the same time, the Commission cited two reasons for not permanently forbearing from enforcing WNP requirements: (1) a desire to promote competition in the wireless market and between wireless and wireline carriers; and (2) a desire to ensure that wireless carriers may

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Western Europe in 2000." *Id.* at 41-42. Prepaid users accounted for an estimated 79% of new subscribers in Western Europe in 2000.

[22] *Id.* at 6.

[23] *Id. at* 24.

[24] *Id*.

[25] *Id.* at 23-24. *See also* Telephia News Release, "Wireless Phone User Habits indicate that Switching Providers is a Significant Industry Concern," (Jan. 16, 2001); "Pricing Plans Drive Churn; Fickle Customers One-Third Each Year Seek Better Deals," Wireless Week (May 8, 2000); "Can Incentives Stop Churn?", Wireless Week (Oct. 16, 2000).

participate in LNP-based number optimization measures such as pooling.[27] Forbearance from WNP today would still be in the public interest because forbearance would allow wireless carriers to devote resources to meet more critical demands of regulators, consumers, and the marketplace. Further, permanent forbearance from WNP at this time is reasonable and consistent with the public interest given that CMRS competition continues to thrive without WNP, and wireless carriers can deploy number pooling by November 2002 without WNP.

Although wireless carriers have completed system construction needed to meet the Commission's build-out requirements, wireless carriers continue to face significant pressure to expend resources necessary to improve service quality, to roll out third generation products and services, and generally to remain competitive.[28] Even though portability has been available from wireline carriers for several years, there has not been significant interest expressed by wireless customers in being able to retain their phone number. To the contrary, various articles have illustrated that the most important factors for CMRS customers in deciding whether to change providers are basic aspects of service, including: (1) network reliability and reception; (2) rate plans/discounts; (3) customer service; and (4) new handsets.[29] CMRS carriers currently devote a significant number of resources to address these "high priority" items. For example, carriers

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[26] *CTIA Forbearance Order* at para. 38.

[27] *Id.* at paras. 40 and 48.

[28] "Mad as Hell," Forbes (Sept. 17, 2001); "Churn is Scourge that Affects All, Benefits None," Wireless Insider (June 11, 2001); "FCC Asks Wireless Industry to Address Service Quality," Telecommunications Reports (June 25, 2001).

[29] *See* "They Love me, They Love me Not," Wireless Review (Nov. 1, 2001); "Can Incentives Stop Churn," Wireless Week (Oct. 16, 2000); "Managing Churn at the Core," Business and Management Practices (July 2000). Another article notes that research demonstrates that "wireless consumers switch carriers for two main reasons: because they want a better pricing plan and because they want a new handset." "Can Incentives Stop Churn?", Wireless Week (Oct. 16, 2000).

spent approximately $18 billion last year to improve and expand their networks.[30] Allowing the industry to devote its resources at this time on these fundamental aspects of CMRS service will benefit customers more than the ability to port numbers to another carrier.

Moreover, WNP has not been necessary to the development of CMRS competition. As demonstrated throughout the Verizon petition, CMRS competition continues to flourish.[31] Rates are lower; customer choice has increased (both in terms of the number of competitors and in the number of services, features and rate plans); and customers continue to change carriers with seemingly little hesitation and relative ease.[32] Nor is WNP necessary to promote wireless-wireline competition. Even without WNP, customers are using their wireless phones as a substitute for some wireline minutes of use and wireline services. In the Sixth CMRS Report, the FCC notes that wireless phones are being used in place of payphones, second residential lines and wireline phones for long distance minutes.[33] In addition, some mobility carriers, like Leap Wireless, are successfully competing directly with wireline phone service offerings.[34] Furthermore, there is no evidence that a customer's inability to port their wireline phone number to their wireless phone is adversely impacting wireless-wireline competition. According to a survey performed for the Consumer Electronics Association, between 30 and 45 percent of

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[30] CTIA's Semi-Annual Wireless Industry Survey Results (Dec. 2000). As demonstrated by research, "the competition to build higher bandwidth wireless networks will result in a $34.1 billion market for wireless infrastructure equipment this year -- a market that will grow to $42.6 billion by 2003." "Why Mobility? Industry Trend or Event," Electronic Design (Sept. 5, 2000) (noting that it is "not just higher speed that wireless carriers are after; it's also greater coverage…. [i]f [CMRS] networks are over-subscribed -- or if users can't get a good signal in an area where they need service the most -- they'll jump ship fast. So carriers must continue to build out the infrastructure").

[31] Verizon Petition at 21.

[32] As the Commission noted in its *Sixth CMRS Report*, the wireless market in 2000 "continued to experience increased competition and innovation as evidenced by lower prices for consumers and increased diversity of service offerings." *Sixth CMRS Report* at 4-5.

[33] *Sixth CMRS Report* at 36-37.

wireless phone users stated they would rather give up their landline telephone than their wireless phone.[35]

In addition, as the Verizon petition fully explains, WNP itself is not necessary in order for carriers to be able to pool numbers. It is LRN-based architecture and the separation of MIN/MDN in the wireless network (supporting both WNP as well as number pooling) that is necessary for the deployment of number pooling.[36] In fact, WNP is not only unnecessary to, but would likely delay and/or interfere with, successful and timely implementation of pooling. As discussed in more detail below, simultaneous implementation of both number pooling and WNP would have a substantial negative impact on network reliability and Number Portability Administrative Centers ("NPAC") resources. The additional amount of resources and time required to fully implement WNP on the same schedule as number pooling also would divert and potentially delay CMRS carriers from successfully implementing and participating in number pooling. The Commission itself has previously observed and recognized that network reliability is a significant consideration and that "flash cut" implementation could threaten such network reliability.[37] The Commission should thus conclude that WNP is unnecessary in order for number pooling to take place and that it is consistent with the public interest to permanently forbear from WNP.[38]

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[34] *Id*. at 37-39.

[35] *Sixth CMRS Report* at 36, citing *Will Wireless Phones Make Traditional Home Telephones Obsolete*?, News Release, Consumer Electronics Association (Apr. 6, 2000).

[36] Verizon Petition at 2.

[37] *First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7285 para.83 (1997), and *Matter of Telephone Number Portability*, CC Docket No. 95-116, Third Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd 16090 at para. 10 (1998).

[38] AWS does not dispute that WNP may at some point in the future be needed to further increase the level of competition in the wireless market or between the wireless and wireline markets. *See CTIA Forbearance Order* at para. 40. However, current circumstances do not support a finding that WNP is

III. REQUIRING POOLING AND WNP TO BE IMPLEMENTED SIMULTANEOUSLY POSES A NUMBER OF SIGNIFICANT RISKS TO SUCCESSFUL IMPLEMENTATION OF POOLING.

The Commission requirement that CMRS carriers implement both number pooling and WNP on a "flash-cut" basis by the November 2002 WNP deadline has precipitated a number of petitions for reconsideration of the pooling deadline.[39] Although AWS is fully committed to meeting the November 2002 *number pooling* deadline, it urges the Commission to reconsider whether implementation of WNP is required at all and particularly, within the same timeframe as number pooling. The severity of the numbering resource crisis requires that carriers implement number pooling quickly and successfully instead of diffusing their attention with WNP efforts. This is most consistent with the Commission's goals and its conclusion that "the issue of telephone number exhaust must be addressed quickly and comprehensively."[40]

A. The Implementation of the LRN Architecture and Separation of MIN/MDN in the Wireless Network

The implementation of the WNP architecture necessary for both pooling and porting is particularly challenging for CMRS carriers due to the mobile nature of wireless service and the need to facilitate roaming.[41] The Verizon petition discusses some of the technical challenges associated with the implementation of the MIN/MDN split, including the need for every wireless

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necessary at this point, and there is no evidence that WNP will be necessary at any defined point in the future. If and when that occurs, the FCC could mandate LNP at that later date or simply permit the market to drive the roll out schedule.

[39] *See* NRO Reconsideration Petitions by CTIA, Cingular Wireless, and Sprint Corp.

[40] *CTIA Forbearance Order* at para. 2.

[41] *See CTIA Forbearance Order* at paras. 28, 41. Although the Commission's order discusses the challenges of the implementation of WNP generally, the concerns it expresses about the implementation of LNP in a mobile environment (*e.g.*, the difficulty of the MIN/MDN split) relate to the implementation of WNP *architecture* that supports pooling. *Id*. at paras. 44-48.

carrier in the country (no matter how small) to change essentially all of their network and customer facing systems to reflect the split by November 24, 2002.[42]

The Commission should not underestimate the enormity of this task and the number of potential impediments — both anticipated and unanticipated — to its successful implementation. For example, the recent downturn in the telecommunications sector[43] has made it challenging for wireless carriers to obtain the switch software from some of their vendors needed to implement the MIN/MDN split on the dates promised. Although AWS believes that it will be able to obtain its switch and network component software in time for pooling, it has had to devote more resources to this effort and has experienced more delays than it originally had expected (or probably would have encountered but for the declining economic climate). Moreover, as discussed in greater detail below, the delay in delivery of software will delay the intercarrier testing needed for WNP[44] -- thus jeopardizing the timely implementation of WNP and increasing the difficulty of the simultaneous implementation of pooling and porting.

Similarly the task of ensuring that all of the approximately 250 wireless carriers in the country successfully implement the MIN/MDN split by November 2002 has proven to be a

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[42] *See also* North American Numbering Council, Local Number Portability Administration Working Group, Second Report on Wireless Wireline Integration, Section 6.2 Open Issues, Support of National Roaming; Number Portability Technical Operation and Implementation Requirements, Phase II, Section 3.4.1 Major Impacts, MIN/MDN Separation Wireless.

[43] This downturn has hit a number of wireless equipment manufacturers particularly hard. "Telecom equipment firms fall on gloomy outlook," Reuters (September 5, 2001) at http://biz.yahoo.com/rf/01905/n05110075.html; "Motorola Cuts 2,000 Jobs, Predicts Flat Q3," Wireless.NewsFactor.com, at http://dailynews.yahoo.com/h/nf/20010910/tc/13406_1.html; "Nortel sees No Recovery till mid-2002, CBS.Marketwatch.com (August 8, 2001); "Bondholders desert telecom hardware firms," Reuters (September 12, 2001) at http://biz.yahoo.com/rf/010912/112436820_2.html.

[44] Intercarrier testing is on the critical path to launching WNP; however, it is not on the critical path to implementing pooling.

daunting task. Although the industry has conducted extensive outreach efforts to the carriers,[45] there still appear to be carriers who are not aware of the requirement and others who have not developed implementation plans.[46] CTIA and the larger wireless carriers (including AWS) are working with these smaller carriers to bring them along, but much work remains. The industry will need to continue to devote substantial efforts over the next 14 months to ensure that the WNP network architecture is fully and properly functioning by November 24, 2002.

B. Implementation of Pooling

Beyond the implementation of the pieces of the WNP architecture that support pooling, e.g. the LRN architecture and the separation of the MIN/MDN in the wireless network, there are still a number of steps that the wireless industry must take to implement pooling. The Commission established November 24, 2002 as the wireless pooling date (with no transition period between WNP and pooling) on December 29, 2000.[47] Since that time, wireless industry members have been working diligently to prepare to implement pooling. As a first step, a group of wireless subject matter experts, under the direction of CTIA has issued a report on implementation of wireless pooling.[48] The report examines the size and scope of wireless

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[45] The Wireless Number Portability Subcommittee worked with NeuStar to include a notice in their bi-monthly newsletter in November 2000 and January 2001, reminding all wireless carriers of the November 2002 WNP date. This notice was sent to all wireless service providers on the NPAC industry billing list. In addition, the industry has sponsored a number of fora on WNP — some specifically designed for smaller carriers. In January 2001, CTIA sponsored the first "Critical Issues for Small Carriers" forum in Dallas, Texas. A second forum was held in Baltimore in July 2001, and a third is tentatively scheduled for Albuquerque in January, 2002. In addition, the Institute for International Research held a Wireless Number Portability Conference in February 2001.

[46] The Wireless Testing Subcommittee is in the process of submitting an escalation letter to over 50 wireless providers in the top 100 MSAs who have not yet identified their test readiness. The letter requests their participation and is a follow-up to letters previously sent by other LNP industry committees.

[47] *NRO Second Report and Order*

[48] *See* Task Force Draft Pooling Before Porting Report (August 27, 2001) (setting forth steps regarding wireless pooling establishment, studies, pooling administrator requirements, NPAC

pooling and proposes procedures and associated timelines for wireless carrier participation in pooling.[49] As a direct result of this report and its findings, the wireless industry has formed a task force under the Wireless Number Portability Subcommittee, made up of industry representatives, the pooling administrator, vendors, and regulators. The task force will meet monthly for at least the next 14 months, to address wireless pooling implementation issues. One of the central goals of the task force is to identify any problems or possible impediments to wireless pooling implementation as quickly as possible so that they can be solved and pooling can proceed by the scheduled date. This work is particularly challenging because at the same time the industry is examining how to implement pooling for wireless carriers, work is proceeding on state pooling trials, the development of the national pooling roll-out schedule, and ongoing work to solve the problems associated with pooling software release 3.0. [50] These efforts to deploy number pooling are ongoing and will continue to consume much of wireless carriers' attention and resources throughout the remaining portion of this year and well into the next.

C. Implementation of Portability

There are many additional tasks required for the provisioning of number portability that are not required for number pooling. As Verizon's petition discusses in detail, the additional steps necessary to implement WNP are challenging, complicated, and costly.[51] These additional

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requirements, LSMS/Number Portability Database ("NPDB") requirements, SOA/Low-tech Interface ("LTI") requirements, Release 3.0 interface difficulties, and risks and recommendations associated with pooling implementation.)

[49] *Id*.

[50] *Id.* at Section 7.0 (noting that after Release 3.0 in the Northeast, the SOA message backlog issue worsened for the service providers operating in that region). *See also* Communications Daily (Aug. 24, 2001) (reporting an outage of the Neustar NPAC that halted all pooling for two days).

[51] Verizon Petition, Appendix at 6-16.

steps include adoption of an intercarrier communications process, extensive customer service changes, and records management, which require substantial training and internal modifications to systems.[52]

Particularly challenging for AWS are the changes required in the sales and activation process. Unlike wireline carriers which generally sell their services directly to customers, AWS uses a network of retail stores, dealers, kiosks, a direct sales force and the web to sell its service. AWS estimates that it has over 18,000 points of distribution across the country. Each one of these distribution points must change its sales and activation processes to incorporate WNP. In addition, each of the sales people at each of the distribution points must be educated about WNP and the changes to the activation process. This is an enormous undertaking and it is only one of many that AWS would have to complete to implement WNP.

AWS also notes that due to some software delays, its WNP implementation schedule will be compressed and intercarrier testing and national roll out will be rushed, with potential shortcuts invoked to meet the time schedule. WNP, unlike number pooling, requires extensive intercarrier testing (*e.g*. testing of the pre-port process and port activation through the NPAC). The WNP implementation timeline, adopted by North American Numbering Council ("NANC") and forwarded to the Commission in September 2000, established the WNP intercarrier testing

[52] Verizon Petition, Appendix at 6-7. Specifically, these steps involve: (1) developing and modifying current point of sale systems supporting sales channels and customer care operations, which will require new functions regarding porting in and porting out of numbers; (2) providing extensive training of all sales and customer service personnel regarding the porting process, necessary intercarrier communications, and LNP-associated problems; (3) developing new functions and modifying existing systems regarding the number inventory, rating, taxation, and various other programs in order to support the porting process; (4) overhauling current reseller systems to accommodate end user porting; (5) developing and staffing porting centers; and (6) developing and implementing intercarrier communications processes

timeline to begin in October 2001 and end in May 2002.[53] On September 7, 2001, the Wireless Testing Subcommittee sent a letter to the Wireless Number Portability Operations Team, noting that switch and network component vendors cannot deliver solutions within the necessary time frames to meet the WNP intercarrier testing start date of October 2001. Instead, upgrades will be made available sometime after October 2001 and possibly not until after May 2002, thus delaying the commencement of intercarrier testing, which in turn jeopardizes the timely implementation of porting, and increases the difficulty of simultaneous implementation of pooling and porting.

D. Risks of Simultaneous Implementation

The industry cannot afford to divert finite resources that are already devoted to number pooling to attempt to simultaneously implement WNP. There is a significant danger that implementing pooling at the same time as WNP would burden the already limited technical and financial resources of carriers. For example, as noted above, because of the delay and compressed time period for intercarrier testing for WNP, requiring CMRS carriers to attend to the task of implementing pooling while simultaneously undertaking intercarrier testing in such a shortened period, will impede successful implementation of either. The public interest would not be served by such a diversion of resources. Indeed, in recognition of the "compelling need for immediate and comprehensive action to improve efficient use of numbering resources," the Commission should permit carriers to focus fully on the important and challenging tasks of pooling implementation.

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[53] *See North American Numbering Council Wireless Number Portability Subcommittee Report on Wireless Number Portability, Technical, Operational, and Implementation Requirements Phase II*, Version 1.7, Appendix B Timeline Phase 2.

Further, wireless implementation of both pooling and porting at the same time will create serious service quality risks for ported customers. Under today's wireline pooling and porting volumes, a backlog in the transmission of data results when there is a spike in NPAC notifications. A delay in transmission of data means a delay in the porting process, resulting in the ported customer not being able to receive calls until the correct LRN routing is successfully broadcast to all LSMSs in the region. Wireless carrier participation in pooling and porting will dramatically increase demands on the LNP architecture, including NPAC/Service Order Administrator("SOA")/Local Service Management Systems ("LSMS") and number portability databases.[54] Wireless porting volumes are expected to reach 2,800,000 per month resulting in an average of 3 request transactions per port [55]and a possible 8 notification messages per port.[56] The wireless porting volumes could add up to 30,800,000 messages on the LNP architecture per month.[57] Although pooling does not generate a large volume of messages on the NPAC/SOA/LSMS network, wireless pooling will add 16 to 20 million numbers during its first year to the number portability database, utilizing the LRN architecture for call routing. The current LNP architecture has not yet been tested with these increased demands and volumes of activity, and it is unclear how reliably the network will function with both pooling and porting implemented at once. Unlike for pooling, there is no message compression ability for porting and thus, porting of wireless numbers will further significantly increase the volumes of activity on the LNP architecture.[58] Moreover, although software systems such as Efficient Data

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[54] *See* Task Force Draft Pooling Before Porting Report.

[55] These requests are: create, modify and activate.

[56] The messages are: create, modify, activate, T1 and T2 timer expire, and an estimated 3 partial failure notifications.

[57] Task Force Draft Pooling Before Porting Report, Section 6.2.

[58] *Id.* Section 7.4.

Representation ("EDR") (Release 3.0) were developed in order to address and mitigate the demands on the LNP architecture, there have been some problems in testing the software (Release 3.0) that will provide EDR.[59]

In addition, there is the "slow horse" problem, which the LNPA Working Group has been attempting to address. Regional NPACs download pertinent information to all carriers regarding ported numbers via carriers' LSMS. The reliability of the entire NPAC port activation and download process depends to a great extent on each LSMS' ability to accept and correctly process the downloaded information. Unfortunately, some LSMSs are slower and less reliable than others; these "slow horses" already cause a significant number of service failures during the landline porting process today. The number of service failures will only increase when wireless carriers begin to pool or port numbers. Requiring wireless carriers to do both pooling and porting simultaneously will only further stress this proven "weak link" in the chain.

Finally, there are more risks associated with unsuccessful porting than with pooling. With pooling, carriers have the ability to first test numbers to ensure they are working properly before they are assigned to a customer, and if there are problems, the carrier simply would not assign the pooled numbers to a customer until the problem is resolved. In the case of porting, however, a bad port immediately affects the customer. If the port is unsuccessful, the customer will not receive any phone calls. Accordingly, porting should not be implemented simultaneously with pooling because carriers will not have had sufficient time and ability to work on the numerous steps required to fully implement porting in addition to pooling. Given the short time left before November 2002 to ensure that the WNP architecture will be able to support such significant

[59] See footnote 51 *infra*.

volumes of activity, simultaneous implementation of pooling and porting will create considerable risks for customers and the industry.

IV. THE COMMISSION MUST ACT ON THE VERIZON PETITION EXPEDITIOUSLY

November 2002 is only 14 months away. Currently, carriers are trying to split their limited resources between the pooling and porting endeavors. The Commission needs to act on this petition soon if the true public interest benefits that would flow from the granting of this petition are to be achieved, namely: (1) permitting carriers to focus all their energy, resources, and expertise on pooling; and (2) permitting carriers to direct resources that otherwise would be spent on porting to aspects of wireless service that customers value more.

Consistent with the timeline established for WNP, to date AWS has focused most of its resources on the implementation of LRN architecture and the MIN/MDN split. In addition as, is explained above, recently the carriers have begun to focus their efforts on preparing for pooling implementation. As the porting deadline approaches, however, AWS will have to devote more resources to and make some of the more costly investments in the porting process. Of particular concern to AWS is the need to establish a porting center to handle the expected volume of wireless number ports. By the first quarter of 2002, AWS must decide whether or not to establish its own porting center to handle unsuccessful ports or out-source this work effort. Whether in-house or out-sourced, several hundred new employees will be required to staff the center. Further, training of these new employees must begin soon after the decision is made in order to meet the established implementation guideline. Both of these functions, hiring and training, are very costly. AWS emphasizes that the Commission's granting of this petition

expeditiously would allow it to free resources currently directed to WNP, so that its full efforts and focus can be placed on successful number pooling.[60]

V. CONCLUSION

In addition to the fact that the Act *requires* forbearance in this instance because the three Section 10 criteria have been met, there are few negative aspects to granting forbearance. Denial of the petition places great stress on, and poses substantial risks to, the industry, consumers, and the numbering system, while granting it would ensure that the CMRS carriers focus their efforts fully on implementing number pooling and providing quality service to consumers. For the foregoing reasons, AWS encourages the Commission to grant Verizon's petition for permanent forbearance from WNP.

Respectfully submitted this 21st day of September 2001,

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[60] *See also Sprint PCS Petition to Advance the Reply Comment Date and for an Expedited Decision* (Sept. 17, 2001).