

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

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Telephone Number Portability	)	CC Docket No. 95-116

**JOHN STAURULAKIS, INC.  
PETITION FOR RECONSIDERATION**

Pursuant to 47 C.F.R. § 1.429, John Staurulakis, Inc. (“JSI”)<sup>1</sup> hereby files this petition with the Federal Communications Commission (“Commission”) for reconsideration of certain portions of the Commission’s Third Report and Order and Second Order on Reconsideration in the above captioned proceedings released on December 28, 2001 (“Order”).<sup>2</sup>

JSI requests that the Commission reverse its clarification that wireline carriers in the top 100 MSAs that are not local number portability (“LNP”) capable are in violation of Commission rules.<sup>3</sup> Furthermore, JSI requests that the Commission reconsider its apparent decision in this order to revoke the relief it granted in 1997 to wireline carriers in its First Memorandum Opinion

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<sup>1</sup> JSI is a consulting firm specializing in regulatory and financial services to more than two hundred ILECs throughout the United States.

<sup>2</sup> Numbering Resource Optimization, CC Docket No. 99-200, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Telephone Number Portability, CC Docket No. 95-116, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, FCC 01-362 (Rel. Dec. 28, 2001) (Order). The Order was published in the Federal Register on February 12, 2002 (67 FR 6431).

<sup>3</sup> *Order* at ¶¶ 6, 124-125.

and Order on Reconsideration in the Telephone Number Portability proceeding.<sup>4</sup> Alternatively, if the Commission intends to require that all wireline carriers in the top 100 MSAs comply with the “clarification” made in the Order, JSI requests that the Commission amend 47 CFR § 52.23(b)(1) that currently grants specific relief from this requirement as this rule was not amended in the Order.

## **Introduction**

The Order released by the Commission in the above captioned proceeding addresses national thousands-block number pooling, numbering resource requirements, area code overlays and other number resource optimization measures. Among the other number resource optimization measures addressed in the Order, the Commission attempted to clarify its rules regarding number portability requirements that it initially addressed in 1996<sup>5</sup> and addressed again upon reconsideration in its 1997 Reconsideration Order. In the Order, the Commission has clarified, on its own motion, “that the LNP and pooling requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a specific request to provide LNP from another carrier.”<sup>6</sup> The Commission has indicated in the Order that it believes that some wireline carriers in the top 100 MSAs may have misinterpreted these rules as requiring LNP capability only when they receive a request from a competing carrier.<sup>7</sup> In the Order, the Commission gives “non-compliant” carriers in the top 100 MSAs six months from the effective

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<sup>4</sup> Telephone Number Portability, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236 (1997) (1997 Reconsideration Order).

<sup>5</sup> Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 (1996) (1996 Order).

<sup>6</sup> *Order* at ¶ 124.

<sup>7</sup> *Id.* at ¶ 125. In fact, the Commission’s current rules do require a specific request to provide LNP from another carrier. See discussion of 47 CFR §52.23(b)(1) below.

date of the Order to become LNP capable.<sup>8</sup>

The Commission's initial determination in its 1996 Order was to require all wireline carriers that operate within the top 100 MSAs nationally to be LNP capable by a specific calendar deadline. Upon reconsideration, in the 1997 Reconsideration Order, the Commission modified its requirements in response to petitions for reconsideration filed by JSI, the National Exchange Carrier Association ("NECA"), and jointly by the National Telephone Cooperative Association ("NTCA") and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"). These petitioners argued, among other things, that requiring rural LECs to provide number portability where no competitor has requested it will burden rural LECs significantly without benefiting the public by increasing competition. JSI and NTCA/OPASTCO also suggested that the Commission exempt rural LECs operating within the 100 largest MSAs from complying with the implementation deadlines until receipt of a request for deployment. In its 1997 Reconsideration Order, the Commission granted these petitions to limit deployment of portability to "those switches for which a competitor has expressed interest in deployment by concluding that LECs need only provide number portability within the 100 largest MSAs in switches for which another carrier has made a specific request for the provision of portability."<sup>9</sup> The Commission specifically found that "this modification to our rules should address the concerns of parties that urge us to waive number portability requirements for rural and/or smaller LECs serving areas in the largest 100 MSAs until receipt of a request."<sup>10</sup>

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<sup>8</sup> *Id.* Based on publication of the Order in the Federal Register on February 12, 2002, the effective date of the Order is March 14, 2002 and the deadline for compliance with LNP capability for LECs in the top 100 MSAs is September 14, 2002 (six months following the effective date of the Order).

<sup>9</sup> 1997 Reconsideration Order at ¶113.

<sup>10</sup> *Id.*

## Clarification of Rule

In the Order, the Commission declares:

“To clarify any uncertainty in our rules, we modify them herein. To the extent that wireline carriers in the top 100 MSAs may have misinterpreted these rules as requiring LNP capability only when they receive a request from a competing carrier, we give non-compliant carriers six months from the effective date of this order to become LNP capable in the top 100 MSAs.”<sup>11</sup>

JSI respectfully points out that the Commission apparently made this declaration without reference to the specific relief granted carriers in the 1997 Reconsideration Order discussed above. In the 1997 Reconsideration Order, the Commission clearly granted specific relief from its LNP rules and codified the relief by modifying its LNP rules in 47 CFR § 52.23. The rules, as modified by the 1997 Reconsideration Order, state:

§52.23 Deployment of long-term database methods for number portability by LECs.

(a) Subject to paragraphs (b) and (c) of this section, all local exchange carriers (LECs) must provide number portability in compliance with the following performance criteria:

...

(b)(1) All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs) by December 31, 1998, in accordance with the deployment schedule set forth in the Appendix to this part, **in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (b)(2) of this section.**

(2) Any procedure to identify and request switches for deployment of number portability must comply with the following criteria:

....

(Emphasis Added)

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<sup>11</sup> Order at ¶125.

From JSI's perspective, having participated in proceeding resulting in the 1997 Clarification Order, the relief granted by the Commission's own rules to wireline carriers is sufficiently clear and requires no clarification. As the rules currently read, LNP capability is not required until a switch-specific request has been received by the wireline carrier. The implication that wireline carriers are somehow not in compliance with the Commission rules by not being LNP capable in non-requested switches is an unwarranted and perhaps an unintended condemnation of these wireline carriers. JSI seeks reversal by the Commission of its clarification that certain wireline carriers are not in compliance with current Commission rules.

### **Reconsideration of Current Order**

It is clear from the Order that the Commission's intent is to rescind the specific relief granted in 1997 and revert to its original declaration that all wireline carriers within the top 100 MSAs must be LNP capable. JSI seeks reconsideration of this determination based on the fact that in revoking the relief, the Commission has not provided any discussion that would overcome the findings of the Commission discussed in the order granting the relief, the 1997 Reconsideration Order. Thus, the Commission has arbitrarily revoked its rule without considered judgment and a fair viewing of the arguments in support of the relief reflected in the current rule. JSI and other parties should not have to reargue before the Commission the manifold reasons for granting the relief when the opposing position is unsupported, and the Commission agreed with the parties in 1997. No new information is presented in the current order that suggests that conditions have changed to now justify a change in the rules.<sup>12</sup>

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<sup>12</sup> One conclusion obtained from the recent order is that LNP capable switches operated by independent wireline carriers will somehow assist the Commission in thousands-block number pooling. If this is indeed the

In the event the Commission affirms the requirement that all wireline carriers operating within the top 100 MSAs be LNP capable, JSI seeks reconsideration of the six-month deadline imposed for this requirement. JSI reiterates the findings made by the Commission in the 1997 Reconsideration Order that certain small and rural carriers operating within the top 100 MSAs may not be able to become LNP capable within a six-month implementation timeline. Out of fairness, these carriers should not be penalized by the Commission for following the Commission's rules because of a sudden change of course by the Commission as reflected in the "clarification" made in the Order. The Commission itself stated that one remedy for not being able to meet the initial deadlines is to petition the appropriate state commission for suspension or modification of the requirements of 47 USC § 251(b) under 47 USC § 251(F)(2). Under this provision, the state commission is required to act on the petition within 180 days. Under the accelerated six-month requirement, a carrier with less than two percent of national lines would be placed in a timeline squeeze: while awaiting relief from its state commission, the carrier would be in violation of the Commission's new rule. JSI seeks reconsideration of the six-month rule that would allow carriers operating within the top 100 MSAs and that have less than two percent of national lines a longer timeline to become LNP capable. For the goal of developing rules that are technologically neutral, JSI encourages the Commission to require rural LECs that operate within the top 100 MSAs to become LNP capable at the same time the Commission requires CMRS providers to become capable. In light of the aforementioned, if the Commission still wants to require rural LECs operating within the top 100 MSAs to become LNP capable, JSI recommends that the Commission use the same timeline that it will use for CMRS providers.

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reason for the clarification of LNP rules within a numbering resource optimization order, the Commission has failed to provide any reasoning as to how this benefit would be realized.

Currently the deadline for CMRS providers is November 24, 2002, however, the CMRS providers are seeking an extension in this deadline. On the policy objective of technological neutrality, the Commission should grant the same extension to rural wireline carriers operating within the top 100 MSAs.

### **Amend the Current Rule**

If the Commission is determined to revoke the existing relief that is clearly stated in its rules at 47 CFR § 52.23(b)(1), JSI petitions the Commission to amend its rule. 47 CFR § 52.23(b)(1) is unchanged by the current Order. In order to avoid confusion, JSI encourages the Commission to alter its rule to be in conformance with its declarations in the Order, although JSI believes that the Commission would have to reopen the record regarding the issues related to the relief granted in the 1997 Reconsideration Order that is reflected in 47 CFR CFR § 52.23(b)(1). For reasons stated above, JSI believes that if the rule is to be changed, the Commission should alter it to provide relief only to rural wireline carriers consistent with the timeline granted CMRS providers.

### **Summary**

Based on the foregoing, JSI seeks reconsideration of the Order requiring LNP capability for wireline carriers operating within the top 100 MSAs by September 14, 2002 (six months following the effective date of the Order).

Respectfully submitted,

John Staurulakis, Inc.

By /s/ Douglas Meredith

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