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

COMMENTS
OF THE PUBLIC UTILITIES COMMISSION OF OHIO

Introduction

On March 14, 2002, the Federal Communications Commission (FCC) reconsidered and requested comments regarding its findings concerning the local number portability (LNP) and thousands-block number pooling requirements for carriers in the 100 largest Metropolitan Statistical Areas (MSAs). In a December 2001 Order, the FCC mandated that LNP and pooling requirements extend to all carriers in the largest 100 MSAs, regardless of whether the carrier received a request for LNP from another carrier. By a subsequent March 14, 2002 Order, the FCC reconsidered its December findings and asked for comments on that issue - whether the FCC should mandate that all carriers, regardless of whether they have received a specific request from another carrier to provide LNP, within the largest 100 MSAs, provide LNP and participate in pooling.

Because competition will most likely occur in the largest MSA areas, having LNP and pooling in place will eliminate the need to assign additional numbers to the same MSA. The Public Utilities Commission of Ohio (PUCO) recommends that all carriers within the largest 100 MSAs be required to participate in pooling and be LNP capable regardless of whether they have received a request for LNP from another carrier. Due to the cost concerns of small incumbent local exchange companies (LECs) serving less than 15,000 access lines, however, state commissions are in the best position to determine whether a small incumbent LEC within the largest 100 MSAs should be LNP-capable and/or participate in pooling. The FCC should permit state commissions to grant waivers of these requirements to small incumbent LECs based upon cost criteria.

Discussion

Number Portability

The FCC seeks comment on whether the benefits to competition and numbering resource optimization warrant a reinstatement of the original LNP requirement for all local exchange carriers and CMRS carriers in the largest 100 MSAs. FNPRM at ¶ 8. Ideally, the PUCO supports the reinstatement of the original LNP requirement for all local exchange carriers and CMRS carriers in the largest 100 MSAs. As the FCC recognized in its local number portability orders, customers of carriers within the top 100 MSAs are those that are reasonably likely to benefit from number portability due to the availability of competitive options available in a major metropolitan area.

Not only is LNP important, as a competitive measure, but the technology behind LNP is the same technology that is utilized to accomplish number pooling. Number

pooling is obviously an important number conservation measure as it allows blocks of numbers to be assigned in 1,000 rather than 10,000 number increments. Because LNP serves two important goals, number conservation and competition, participation by all local exchange carriers and CMRS in the largest 100 MSAs is an important policy goal. While this policy goal may require those carriers within the largest 100 MSAs who may not yet have received a bona fide request for LNP to make LNP investments, the FCC has Orders that allow for cost recovery for LNP. Thus, a mechanism exists for those carriers to be compensated for deploying LNP within their networks whether or not they have received a bona fide request from another carrier.

The FCC's recent order regarding cost recovery for LNP specifically addressed LNP cost recovery for small and rural incumbent local exchange carriers[1]. The PUCO realizes, however, that such cost mechanisms involve the recovery of certain LNP deployment and query costs from end users as separate line item charges. Some small incumbent LECs in Ohio have so few access lines over which to spread costs that the per subscriber line costs of LNP deployment may far outweigh any benefits to customers where there has been no bona fide LNP request. Thus, the PUCO is recommending that state commissions be permitted to consider this and grant waivers of this LNP requirement to certain small incumbent LECs in the largest 100 MSAs until such carriers receive a bona fide request. The PUCO defines small incumbent local exchange companies as those with fewer than 15,000 access lines. Ohio has forty-two incumbent

[1] Memorandum Opinion and Order on Reconsideration and Order on Application for Review in CC Docket 95-116, *In the Matter of Telephone Number Portability*, FCC CC Docket 95-116, Released February 15, 2002 (Order on Reconsideration).

LECs and, of these, thirty-four of them have less than 15,000 access lines. Twelve of these thirty-four companies have under 1,000 access lines. The FCC should permit states to grant waivers of this requirement to companies of this size on a company-specific basis until the state commission determines, based on an analysis of cost criteria, that the small LEC should deploy LNP.

As stated previously, LNP serves important competition goals. The PUCO's Local Service Guidelines require that all telecommunication carriers provide LNP consistent with the FCC rules. Furthermore, the PUCO has advocated to the FCC that wireless carriers be required to implement LNP due to the competitive advantages of allowing customers to seamlessly transfer service between wireline and wireless providers. As wireless coverage exists throughout most of the state of Ohio, and certainly within Ohio's MSAs, porting between wireless carriers and small or rural local exchange carriers within these areas will provide an important opportunity for competition. Customers of all local exchange carriers, including small and rural local exchange carriers, within the largest 100 MSAs should have the ability to afford themselves the benefits of a competitive market, even if a CLEC is not yet serving in those areas, by switching between wireline and wireless carriers while retaining their existing telephone number(s).

The FCC also seeks comment on whether certain small carriers that have switches either within the largest 100 MSAs or in areas adjoining the largest 100 MSAs, but provide service to no or few customers within the MSA, should be exempt from the

LNP requirement because they are not likely to receive a request for LNP. FNPRM ¶ 8. The FCC's Order on Reconsideration supports the requirement that certain small carriers with switches either within the largest 100 MSAs or in areas adjoining the largest 100 MSAs, and provide service to no or few customers within the MSA, must deploy LNP. The FCC explained that at the time of the FCC's Third Report and Order regarding number portability cost recovery[2], the FCC only allowed an incumbent LEC to assess a federally tariffed end user charge on end users within the largest 100 MSAs and end users that an incumbent LEC serves outside of the 100 MSAs from a number portability capable switch. Order on Reconsideration, ¶ 41.

Several parties representing small and rural incumbent local exchange carriers filed for reconsideration of this Order contending that it failed to provide a cost recovery mechanism for those carriers that were not required to be number portability-capable outside of the largest 100 MSAs. *Id*. The FCC agreed with the petitioners and reconsidered the issue of whether non-LNP capable carriers serving areas outside the 100 largest MSAs could recover their eligible number portability costs through federal mechanisms available to other carriers. *Id*. at 51. The FCC concluded the following:

> . . . We also elaborate on the statement in the Third Report and Order that incumbent LECs may also assess a monthly charge only on end users it serves in the 100 largest MSAs, and end users it serves outside of the 100 largest MSAs from a number portability-capable switch, by adding that small and rural incumbent LECs that provide service through EAS calling plan agreements and are located adja-

[2] Third Report and Order, *In the Matter of Telephone Number Portability*, FCC CC Docket 95-116, Released May 12, 1998 (Third Report and Order).

> cent to number portability-capable areas may assess a monthly charge on their end users . . . . The customers . . . are connected to the number portability network through the EAS calling plans, and receive the direct benefit of completing their calls using number portability-capable switches. The small and rural incumbent LECs are, thus, authorized to recover their query and Local Number Portability Administration costs that were incurred after our decision mandating LNP for a period of five years using the same method that other incumbent LECs use to recover their costs. *Id*. at 55.

In addition, all carriers, including small and rural incumbent LECs, are permitted to federally tariff a query charge for providing query services to other carriers beyond the five-year period of the number portability end user charge. *Id.* at 88. However, these carriers can only charge for queries to those NXXs where a customer has actually ported at least one telephone number within the NXX. *Id*. at 100.

As it appears the FCC has addressed cost recovery for LNP incumbent local exchange carriers, including small and rural incumbent LECs, within the largest 100 MSAs or in areas adjoining the largest 100 MSAs, there is no harm in requiring these carriers to be LNP capable, unless, due to the size of the company, the end-user charge is excessive. Carriers will be compensated for their costs of deploying LNP and their customers will benefit in terms of switching between competitive alternatives and number optimization through thousands-block pooling that may decelerate the need for area code relief. Thus, the PUCO urges the FCC to reinstate its original LNP requirement for all carriers with the proviso that carriers with less than 15,000 access lines may request an appropriate waiver from their state commission.

Thousands-Block Number Pooling

The FCC seeks comment on whether all carriers within the largest 100 MSAs should be required to participate in thousands-block number pooling, regardless of whether they are capable of providing LNP or whether they have received a request to provide LNP in a particular switch. The FCC also seeks comments on whether certain small carriers, or classes of carriers that utilize numbering resources, should be exempt from the pooling requirements. FNPRM ¶ 9. Ideally, the PUCO believes that, in order to use numbers optimally, all carriers within the largest 100 MSAs should be required to participate in thousands-block number pooling regardless of their size, type of carrier, or whether they have received a bona fide request for LNP from another carrier. Since all carriers providing numbers to subscribers help to contribute to the exhaust problem, all carriers need to contribute to resolving number exhaust through conservation measures such as thousands-block number pooling. Because the largest MSAs are the areas in which most competition will probably occur, having pooling in place will alleviate the need for NANPA to assign an entire NXX to a competitive carrier whose business plans do not allow it to wait an additional six months for the ILEC to be able to pool its numbers.

In an ideal world, ILECs, regardless of their size, in the largest 100 MSAs should be prepared to participate immediately when pooling in their NPA commences. In the Third Order on Reconsideration in CC Docket No. 99-200, the FCC established a federal cost recovery mechanism in which carriers can recover through access charges any extraordinary, carrier-specific costs directly related to thousands-block number pooling.

However, the PUCO recognizes that small carriers with less than 15,000 access lines have cost concerns if they are required to implement thousands-block number pooling where they have not already deployed LNP.[3]

The PUCO's staff recently held a workshop with the industry regarding specialized overlays. During the course of the workshop's discussion, one message, from ILECs, CLECs, and wireless carriers alike, became clear. Pooling is a viable means of number optimization and should be implemented as soon as possible. In order to make pooling as effective as possible, every carrier should participate in thousands-block number pooling. As pointed out by the industry in this workshop, the implementation of "inter-species" pooling and porting (the sharing of numbers between wireline and wireless carriers) would alleviate the need for any specialized overlay and would certainly delay the need for relief of an area code's exhaust for some time to come. In fact, during this same workshop, the industry participants encouraged the PUCO to petition

[3] The PUCO recognizes that, to the extent that number pooling is dependent upon LNP, the waiver process discussed above may be applicable to the implementation of number pooling as well.

the FCC to move the 937 NPA higher on the FCC's schedule for national pooling rollout so that pooling could possibly help delay its exhaust. The FCC, on April 24, 2002, moved the 937 NPA higher on the rollout schedule.

The FCC tentatively concluded that expanding the pooling requirement to all carriers without regard to whether they are required to provide number portability will promote further numbering resource optimization and seek comment on this tentative conclusion. FNPRM ¶ 9. As indicated above, pooling will only become a truly viable numbering conservation resource if all carriers participate in such an effort. Granted, portability is another means of numbering conservation; however, if a choice needed to be made between the two, thousands-block number pooling by all carriers would be a more effective tool at this time than number portability due to the limited amount and nature of competition that exists today.

Largest 100 MSAs

In the Numbering Resource Optimization Third Report and Order, the FCC clarified that the "largest 100 MSAs" include those MSAs identified in the LNP First Report and Order as well as those areas included on any subsequent list of the largest 100 MSAs. The most recent U.S. census list for the year 2000 includes areas referred to as combined MSAs or CMSAs. By combining some MSAs, a larger number of geographic areas are included in the newest list of MSAs. The FCC seeks comment on whether to require carriers in such MSAs to provide LNP and participate in thousands-block number pooling and to address whether requiring LNP and pooling in these additional

MSAs will further pro-competition and numbering resource optimization goals. FNPRM ¶ 10. In order for pooling to be the most effective, both carriers in the original top 100 MSAs and those added as a result of the CMSAs should all participate in thousands-block number pooling. More participation from carriers in the national pooling rollout helps to save the entire NANP. Ideally, all carriers within all NPAs should be pooling capable and ready to pool immediately when competition (whether from a CLEC or a wireless carrier) comes to their rate centers.

Conclusion

The PUCO recommends that the FCC reinstate the LNP requirement for all incumbent LECs and CMRS carriers in the largest 100 MSAs. The PUCO also recommends that the FCC grant the PUCO the discretion to consider allowing small incumbent LECs with less than 15,000 access lines to request a waiver of the pooling and LNP requirements from their state commissions until they receive a bona fide request for LNP from another carrier. Customers located in these areas will reap the benefit of number portability due to the availability of competitive options. In addition to the benefit that LNP provides to competition, LNP also benefits number conservation because the technology that supports LNP is also used to accomplish pooling. The PUCO believes that since all carriers providing numbers to subscribers help to contribute to the exhaust problem, all carriers need to contribute to resolving number exhaust through conservation measures such as thousands-block number pooling within the original top 100 MSAs and those MSAs added as a result of the CMSAs. The PUCO also

recommends that small incumbent LECs located within the largest 100 MSAs and serving less than 15,000 access lines may deserve special consideration due to cost con-

cerns and should be granted the option of applying for a waiver of the pooling and/or LNP requirements with state commissions.

On behalf of the Public Utilities Commission of Ohio

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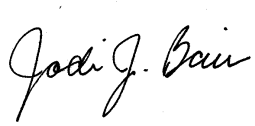

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