

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

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In the Matter of)	
Numbering Resource Optimization)	CC Docket No. 99-200
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	
Telephone Number Portability)	CC Docket No. 95-166
_____)	

**THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby files its initial comments in the above-captioned proceeding.² NTCA urges the Commission to exempt all rural incumbent local exchange carriers (ILECs) with switches within the largest 100 Metropolitan Statistical Areas (MSAs) from local number portability (LNP) and thousand-block number pooling, until the ILEC has received a request for LNP from a competing carrier and has become LNP capable. NTCA also requests that the Commission clarify its rules so that rural

¹ NTCA is a non-profit corporation established in 1954 and represents 545 rate-of-return regulated rural telecommunications companies. NTCA members are full service telecommunications carriers providing local, wireless, cable, Internet, satellite and long distance services to their communities. All NTCA members are small carriers that are defined as “rural telephone companies” in the Communications Act of 1934, as amended (Act). They are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Telephone Number Portability*, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, FCC 02-73, (rel. March 14, 2002)(FNPRM).

ILECs with switches located outside the largest 100 MSAs that have lines inside these MSAs are exempt from LNP and TBNP requirements, absent a specific request for LNP from a competing carrier.

I. INTRODUCTION

On March 14, 2002, the Commission on its own motion reconsidered its findings in the Numbering Resource Optimization Third Report and Order.³ Specifically, the Commission reversed its previous ruling that LNP requirements extend to all carriers within the largest 100 MSAs, regardless of whether a carrier has receive a request to provide LNP.⁴ The Commission now seeks comment on whether it should reinstate its previous ruling and seeks further comment on whether it should require all carriers in the largest 100 MSAs to participate in TBNP, regardless of whether the carrier is LNP capable.⁵ The Commission also seeks comment on whether small carriers within the largest 100 MSAs, or in areas adjoining the largest 100 MSAs that 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.⁶

³ *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Telephone Number Portability*, Third Report and Order and Second Order on Reconsideration, CC Docket Nos. 99-200, 96-98 and 95-116, FCC 01-362, ¶124, (rel. Dec. 28, 2001)(Third Report and Order).

⁴ *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and Telephone Number Portability*, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking inn CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, FCC 02-73, ¶1.

⁵ *Id.*

⁶ *Id.*, ¶ 8.

II. RURAL ILECS THAT HAVE NOT RECEIVED A REQUEST FOR LNP SHOULD BE EXEMPT FROM LNP AND TBNP REQUIREMENTS

The Commission should consider the differing levels of local exchange competition in rural study areas and exempt all rural ILECs with switches inside the largest 100 MSAs from LNP and TBNP, until the ILEC has received a request for LNP and has become LNP capable. The obligations in Section 251(b) were never intended to apply to any ILEC, let alone a small rural ILEC, until the ILEC received a request to provide the particular service or access. The Manager's Report reflecting Congresses' intent provides the insight and direction the Commission should follow:

The conferees note that the duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC's network.⁷

Limiting the ILECs' obligation to instances that only involve a request for service would prevent the deployment of technologies that are not currently needed by competitors in these areas. Requiring deployment in areas where competitors have not made a request will result in no public benefits while imposing burdensome costs on rural telephone companies, their customers and other users of the network who will be required to bear the common costs of deployment. Section 251(f)(2) anticipates that it is not in the public interest to require small companies to assume unnecessary economic burdens to comply with the number portability requirements in Section 251(b). It gives "rural carriers" a right to seek suspensions of the requirements. The Commission should give deference to the obvious Congressional intent not to burden "rural

⁷ Joint Managers' Statement, S.Conf.Rep.No. 104-230, 104th Cong., 2d Sess. 121, (1996) ("Joint Explanatory Statement").

telephone companies" all of whom are also "rural carriers" with costs that do not add any benefits to their customers.

Most of the NXX codes of rural ILECs have been held for decades and many of the thousand-blocks of numbers contained in these codes would be unavailable for TBNP. The impact on extending the life of the numbering plan by requiring all rural ILECs in the largest 100 MSAs to implement LNP and TBNP would be miniscule at best. Weighing the benefits of imposing LNP and TBNP on rural ILECs against the cost that would be incurred by rural ILEC consumers clearly demonstrates that requiring rural carriers to implement LNP and TBNP without a competitive local exchange carrier (CLEC) requesting number portability is not in the public interest.

Estimates of the fixed costs to upgrade a rural ILEC switch for LNP and TBNP range from \$100,000 to \$200,000. Depending on the size of the rural ILEC, and the area served, each rural ILEC will incur the additional cost of their staff spending time and resources to implement, test, monitor and ensure that the systems work properly. This added cost can double or triple the actual cost to provide LNP and TBNP services to \$200,000 to \$600,000. These costs would then be spread over the rural ILECs' customer base. NTCA member companies average approximately 6000 access lines. Assuming the cost to implement LNP and TBNP for a rural ILEC with 6,000 access lines is \$300,000, the cost per access line/customer would be \$50.00.

By contrast, this same cost to a non-rural ILEC serving 60,000 access lines in one of the 100 largest MSA is \$5 per customer. Imposing LNP and TBNP on rural ILECs would result in rural customers incurring a significantly higher disproportionate cost for LNP and TBNP as compared to the cost imposed on urban and metropolitan customers in the 100 largest MSAs.

This result would be inherently unfair for rural ILEC customers. These consumers would pay a

excessively high price for LNP and TBNP without receiving any of the benefits associated with these services because of the non-existence of a facilities-based CLEC requesting LNP.

The absence of LNP in areas served by many rural carriers indicates that many of these carriers have not yet received a request for LNP from a competitor. This strongly suggests that there is little, if any, facilities-based competition in any of the exchanges served by non-LNP capable ILECs. If there is no competitive presence in these rural exchanges, there is no compelling reason to require rural ILECs to implement LNP and TBNP at this time. The FCC's proposal would merely punish rural local exchange carriers and their customers for a numbering exhaust problem caused by CLECs, non-rural ILECs, and wireless carriers serving urban and metropolitan areas throughout the United States.

Rather than seeking to impose new regulatory obligations on rural ILECs, the Commission should be searching for ways to significantly reduce regulatory burdens placed on small carriers. Rural carriers have limited resources and few employees to operate their networks. Every new regulatory obligation imposes new costs that are ultimately borne by rural customers. The costs of resolving the numbering problem should be borne by the carriers causing the number exhaust problem and the customers who are receiving the benefits of LNP, TBNP, and competition. CLECs, non-rural ILECs, and wireless carriers are receiving these benefits and, unlike rural carriers, have a tremendous amount of free numbers to add to the pool and their urban and metropolitan customer bases. In contrast, many rural ILECs and their customers receive virtually no benefits from LNP and TBNP either because they are currently faced with no facilities-based competition or the competition in their study area has no need for ported numbers. Mandatory LNP and TBNP therefore should not be required of rural ILECs inside the largest 100 MSAs prior to receiving a request for LNP from a competing carrier.

III. CONCLUSION

Rural ILECs with switches inside the top 100 MSAs would be significantly affected by a rule change that would require that their switches be LNP capable. The financial and administrative burden would be substantial. Many rural exchanges are very small and quite rural, even though they technically fall within the 100 largest MSAs. For example, an NTCA member company with 1,600 access lines located approximately 40 miles north of Kansas City would fall within the Kansas City MSA. In New York State, another rural LEC with 1,000 access lines estimates that the cost to upgrade its switch would be \$100,000, a cost of approximately \$100 per access line/customer. Under the current LNP cost recovery rules this expenditure can be recovered over a five-year period, which would result in approximately \$1.66 monthly end-user charge per access line.⁸ This would be a significant investment for any small rural ILEC that has yet to receive a request for LNP and a significant financial burden on rural consumers who already are receiving annual subscriber line charge increases without any corresponding decreases in long distance charges imposed by the national long distance providers. The LNP upgrade would sit idle until the rural ILEC received a request from a competitor, which could be years, leaving rural consumers with higher phone bills and nothing to show for it.

Rural ILECs have not caused the numbering exhaust problem and should not be required to implement LNP and TBNP inside the largest 100 MSAs. Imposing mandatory LNP and TBNP on rural ILECs with switches inside in the largest 100 MSAs without a request for LNP would fail to provide the benefits of LNP and TBNP to rural consumers and fail to provide any meaningful extension to the life of the North American Numbering Plan. Imposing unnecessary

costs on rural LEC customers without any tangible benefits is not good business, not in the public interest, and contrary to Congressional intent.

The Commission should therefore refrain from extending LNP and TBNP requirements to rural ILECs in the largest 100 MSAs, regardless of whether the carrier has received a request to provide LNP from a competing carrier or whether the ILEC is LNP capable. The Commission should instead exempt all rural ILECs within the largest 100 MSAs from LNP and TBNP, until the carrier has received a request for LNP from a competing carrier and has become LNP capable. The Commission should also clarify its rules so that rural ILECs with switches located outside the largest 100 MSAs that have lines that fall within those MSAs are exempt from the LNP and TBNP requirements absent a specific request for LNP from a competing carrier.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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May 6, 2002

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No 99-200, CC Docket No. 96-98, CC Docket No. 95-116, FCC 02-73 was served on this 6th of May 2002 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail C. Malloy

Gail C. Malloy

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