

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Number 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

To: The Commission

REPLY COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP

The Rural Telecommunications Group (“RTG”)¹, by its attorneys, hereby submits these reply comments in connection with the Federal Communications Commission’s (“FCC” or “Commission”) Further Notices of Proposed Rulemaking (“FNPRM”)² in the above-captioned proceedings.

¹ RTG is an organized group of rural telecommunications carriers who have joined together to promote the efforts of all rural telecommunications carriers to speed the delivery of new, efficient and innovative telecommunications technologies to the populations of remote and underserved parts of the country. The majority of RTG’s members are commercial mobile radio service (“CMRS”) licensees, and therefore are among those required to share the technical and burden of implementing number portability. While most RTG members operate outside of the top 100 metropolitan statistical areas (“MSAs”), some RTG members operate within such areas or within such areas as would be encompassed by the Commission’s proposed definition of top 100 MSAs. RTG has participated extensively in the proceedings related to the development of the Commission’s number portability requirements, and RTG appreciates the opportunity to submit these reply comments.

² *In Re Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed

I. Portability Obligations Should Continue to Be Triggered by a Bona Fide Request

RTG opposes the adoption of any requirement that all carriers, regardless of whether they have received a specific local number portability (“LNP”) request from another carrier, deploy LNP in the 100 largest metropolitan statistical areas (“MSAs”). The record in this proceeding is replete with references to the enormous cost of compliance with LNP obligations. To force carriers to incur such expense before an LNP request is even made is both unfair and detrimental to the public interest. Such a requirement would needlessly lock such carriers into a technology choice which may be outmoded or less suited to their particular needs at the time a request for LNP is actually made, and the technology is actually deployed. In addition, such a requirement would force carriers to incur a massive expense prematurely without any corresponding, or indeed any, benefit. Wireless customers should not be forced to bear the cost of compliance with a regulatory mandate prior to a time when they can realistically expect to enjoy the benefits of compliance with that mandate.

For these same reasons, RTG supports an exemption from the LNP requirement for “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.”³ As the Commission correctly recognizes, such carriers are unlikely to

Rulemaking in CC Docket No. 96-98, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, FCC 02-73 (rel. March 14, 2002) (“*FNPRM*”).

³ *FNPRM* at par. 8.

receive a request for LNP, and there is no public interest reason for requiring such carriers to comply with the LNP requirement.

RTG agrees with Mid-Missouri Cellular (“MMC”) that bona fide requests need to be genuine for the purpose of the rule to be served. RTG supports MMC’s request that the Commission require requesting carriers to:

- 1) Have an existing NPA-NXX in the same rate center where the requested carrier maintains an NPA-NXX;
- 2) Not impose any locks (or contemporaneous with the date of the request remove all such locks, effective as of the date of that request) on its subscriber handsets; and
- 3) Waiver or not require, from the date of such request forward, any contractual restrictions that force a subscriber of the requesting carrier to incur any “cancellation charge” in excess of that required to offset any *bona fide* handset subsidy in the original handset sale.⁴

As noted in MMC’s comments, many small, rural carriers (including RTG members) are the only wireless carrier with points of interconnection in the rural rate centers. There is no reason to require such carriers to be LNP capable where there is no wireless carrier with which it can port. The Commission should amend its rules to make clear that a request can only be considered bona fide if the requesting carrier has an existing NPA-NXX in the same rate center where the requested carrier maintains an NPA-NXX.

⁴ Comments of Mid-Missouri Cellular filed May 6, 2002 (“MMC Comments”) at p. 10.

As more fully explained in MMC's comments, RTG members' customers have also experienced the "locked" handset phenomenon.⁵ A customer cannot port to another carrier if its handset is locked. Locking of handsets completely undermines the intended benefits of portability. A carrier should not be allowed to make a "bona fide" request for LNP where its own actions effectively allow portability only in one direction. Unlocking of such handsets must be a precondition to a bona fide request for LNP. Self renewing service contracts which require the subscriber to face a renewal "early cancellation penalty" similarly serve to deter customer's from taking advantage of their ability to port, and should not be permitted. While a cost-based early cancellation clause is a routine business practice, a self-renewing service contract coupled with an excessive cancellation fee amounts to yet another attempt to restrain a customer from porting to another carrier.

II. The Commission Should Examine Competitive Realities When Defining the Largest 100 MSAs

The Commission has recognized that LNP and pooling requirements may not be warranted in those areas on the largest 100 MSAs list only because they have been combined with other MSAs into combined MSAs ("CMSAs"). RTG does not support the imposition of LNP and pooling requirements on carriers in such MSAs. Small carriers and rural carriers should be able to opt out of participation in such MSAs upon a showing that there are no competing carriers in the applicable geographic area.

⁵ See MMC Comments at pp. 6-8.

For the foregoing reasons, RTG requests that the Commission act in a manner consistent with the views expressed herein.

Respectfully submitted,

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