

November 1, 2002

William Maher, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street S.W., Room 5 C450
Washington, D.C. 20554

Re: In the Matter of Telephone Number Portability, CC Docket No. 95-116

Dear Mr. Maher:

The National Telecommunications Cooperative Association (NTCA)¹ and the National Rural Telecom Association (NRTA) submit this letter in support of the National Exchange Carrier Association's (NECA) petition for reconsideration in the above-referenced proceeding.² NTCA and NRTA support NECA's request to allow non-local number portability (LNP) capable incumbent local exchange carriers (ILECs) located outside the largest 100 Metropolitan Statistical Areas (MSAs) to recover LNP-related costs through existing separations and access charge mechanisms.³

Today, in order to recover LNP-related costs a non-LNP capable ILEC located outside the largest 100 MSAs must be located within an extended area service (EAS) calling plan that encompasses portions of at least one of the largest 100 MSAs or other adjacent areas serviced by a number portability capable switch.⁴ Of the 1095 study areas that participate in the NECA Traffic Sensitive pool, only 291 study areas are located either entirely or partially within the largest 100 MSAs.⁵ Consequently, rural ILECs operating in the remaining 804 study areas located outside the largest 100 MSAs cannot recover their LNP-related costs under the Commission's existing rules.⁶

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 556 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many also provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). And all are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order on Reconsideration and Order on Application of Review, 17 FCC Rcd 2578 (rel. Feb 15, 2002) (*Order on Reconsideration*).

³ NECA Petition for Reconsideration, CC Docket 95-116, (filed July 15, 2002).

⁴ *Order on Reconsideration*, ¶53.

⁵ NECA Petition for Reconsideration, CC Docket 95-116, pp. 2-3.

⁶ 47 C.F.R. § 52.33.

William Maher, Chief
Wireline Competition Bureau
November 1, 2002
Page Two

The rules currently allow LNP capable ILECs that have completed their five-year LNP implementation to recover their database administration costs and N-1 query charges through access charges.⁷ In addition, the rules permit all rate-of-return (ROR) ILECs to recover their costs of thousand block number portability (TBNP) implementation in their interstate access charges, notwithstanding the fact that TBNP costs cover the same type of functions as LNP costs and are governed by the same statutory cost recovery provisions.⁸ Conversely, non-LNP capable ILECs located outside the largest 100 MSAs are currently prohibited from recovering their ongoing and growing LNP-related costs through access charges. These costs include the costs of supporting regional Number Portability Administration Centers and N-1 query costs for intraLATA toll calls, which are imposed on all non-LNP capable ILECs depending on calling arrangements in rural areas and varying intraLATA toll presubscription requirements.

NTCA and NRTA believe the disparate cost recovery treatment between LNP capable and non-LNP capable ILECs is unwarranted. The concern that allowing recovery on these costs through access charges would somehow provide ILECs with an unfair competitive advantage is not justified.⁹ Study areas served by non-LNP capable ILECs are typically rural ILEC study areas and carriers competing in these areas are neither seeking nor requesting LNP. Indeed, most competitors in these study areas are wireless providers who have no interest in porting rural ILEC telephone numbers. Furthermore, LNP capable carriers are allowed to recover these costs in access charges after the completion of their LNP implementation regardless of the presence or non-presence of competition in their service areas. Thus, there is no compelling reason why the Commission should prohibit non-LNP capable ILECs from recovering their LNP-related costs through access charges. These costs are operating costs and should be recoverable.

⁷ *Order on Reconsideration* at 87.

⁸ See Number Resource Optimization, CC Docket No. 99-2000, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96098, Telephone Number Portability, CC Docket No. 95-116, Third Report and Order and Second Order on Reconsideration, CC Docket No. 99-200, 17 FCC Rcd 252 (2002), ¶ 24.

⁹ *In the Matter of Telephone Number Portability*, CC Docket 95-116, Third Report and Order, ¶ 39, 13 FCC Rcd 11701 (1998).

William Maher, Chief
Wireline Competition Bureau
November 1, 2002
Page Three

NTCA and NRTA therefore urge the Commission to adopt NECA's petition for reconsideration and amend its rules to allow non-LNP capable ILECs to recover their carrier specific LNP-related costs through existing separations and access charge mechanisms.

Sincerely,

/s/ Daniel Mitchell
Daniel Mitchell
NTCA

/s/ Margot Smiley Humphrey
Margot Smiley Humphrey
NRTA

cc: William Maher
Tamara Preiss
Deena Shetler
Lenworth Smith
Margaret Dailey