

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

In the Matter of)
)
Telephone Number Portability) CC Docket No. 95-116
)
Petition for Declaratory Ruling of the)
Cellular Telecommunications &)
Internet Association)
)

To: The Commission

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP

The Rural Telecommunications Group (“RTG”), in response to the Federal Communications Commission (“FCC” or “Commission”) request for comments in its January 27, 2003 *Public Notice*,¹ hereby submits comments opposing the Petition for Declaratory Ruling (“Petition”) of the Cellular Telecommunications & Internet Association (“CTIA”) filed January 23, 2003. RTG opposes the Petition because the ruling CTIA seeks would, without further limitation, lead to massive consumer confusion that would far outweigh any competitive benefit and would provide large wireless carriers with an unfair competitive advantage over small wireless carriers.

¹ *In re Comment Sought on CTIA Petition for Declaratory Ruling That Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas*, CC Docket No. 95-116, DA 03-211 (January 27, 2003).

I. Statement of Interest

RTG is an organized group of rural telecommunications providers who have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG's members provide wireless telecommunications services such as cellular telephone service and Personal Communications Services ("PCS") to their subscribers. RTG's members are affiliated with rural telephone companies or are small businesses serving or seeking to serve secondary, tertiary, and rural markets.

II. ARGUMENT

a. Porting Numbers Across Rate Center Boundaries Would Lead to Massive Consumer Confusion

In the Petition, CTIA notes that some local exchange carriers ("LECs") have taken the position that they are only required to port numbers from a customer to a wireless carrier who has a point of presence and/or who has previously been assigned numbers in the same LEC rate center. CTIA argues that this interpretation of the local number portability ("LNP") obligations would deprive nearly 90% of all wireline customers the ability to port their numbers to a wireless carrier because wireless carriers use a single switch to serve large geographic areas and therefore do not have a point of presence ("POP") in most LEC rate centers. CTIA therefore requests that the FCC declare that upon the implementation of Wireless Number Portability ("WNP"),² wireline carriers must port their customers' telephone numbers to wireless carriers whose service areas overlap such wireline carriers' rate centers, regardless of whether such wireless carriers have a POP or have previously been assigned numbering resources in such rate centers.

² For the purpose of this discussion, LNP refers to the obligations of LECs to port Numbers and WNP refers to the obligations of wireless carriers.

The CTIA Petition is silent as to how a customer's number will be *rated* when such number is ported from a LEC to a wireless carrier that does not have a POP in the customer's rate center or that does not have other numbers rated to such rate center. Discussions with numerous wireless carriers and FCC staff reveal a general assumption that the wireless carrier receiving the ported number would be free to rate the ported number to any rate center of the receiving carrier's choosing within its wireless service area.

If the receiving carrier is indeed free to rate the call to a different rate center than the customer's original rate center, the result will be massive consumer confusion and billing nightmares. A number that is a local call for neighboring callers at 9:00 in the morning could be a long distance call at noon, with no prior warning and no change in dialing pattern. Although RTG generally strongly supports the benefits of landline and wireless competition, the resulting consumer confusion and administrative nightmares that would result from the requested ruling would far outweigh any pro-competitive benefit to consumers.

CTIA correctly acknowledges that the FCC has to date only mandated service provider portability and not location portability.³ If the Commission grants the CTIA Petition and allows receiving carriers to change the rating of ported numbers, the result will be unintended location portability that is not supported by prior Commission decisions.

b. Porting Numbers to Foreign POPs Raises Serious Routing Issues that Should be Considered in Connection with Related Inter-carrier Compensation Issues

Even if the rating of the ported number is not changed, CTIA's requested relief raises serious questions of how a call to the ported number must be routed and how the originating carrier will be compensated if at all. These larger rating and routing issues are being, and should

³ See Petition, note 54 and accompanying text.

be considered as part of the Commission's larger *Unified Intercarrier Compensation* proceeding.⁴

For example, a large wireless carrier ("LargeCo") might hold the license for the Minneapolis Major Trading Area ("MTA") and might provide service along Interstate 94, thus "serving" the areas around the town of Albany, Minnesota. LargeCo typically would have numbering resources assigned to the landline rate center in Minneapolis but would not have a POP in or numbering resources rated to Albany. If landline customer No. 1 in Albany is allowed to port its number to LargeCo and landline customer No. 2, also in Albany, calls customer No. 1, to what extent is the LEC serving the area around Albany required to deliver the call to LargeCo?

The CTIA Petition seems to assume that wireless carriers have interconnection agreements with most LECs. In RTG's experience, however, typically large carriers and small LECs or small wireless carriers serving rural areas do not have direct interconnections or even existing interconnection agreements. In the above example, the only way for the small carrier originating the call in Albany to route it to LargeCo would be to put the call on the toll network. If the call is "rated" locally, then the originating carrier cannot recover the cost of the transport from its originating end user. The end user has no knowledge or expectation that it has made a "toll" call. The Commission's interconnection rules also prohibit the originating LEC from recovering the costs for its facilities or switching from the terminating wireless carrier.⁵

The CTIA Petition, therefore fundamentally impacts the rating and routing of intercarrier calls and this impact must be carefully considered. Number portability should not become an

⁴ See *In re Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, 16 FCC Rcd 9610, *Notice of Proposed Rulemaking* (2001) ("*Unified Intercarrier Compensation NPRM*").

⁵ See 47 C.F.R. §§ 51.703(a) and 51.709(b).

accidental shortcut around critical intercarrier compensation issues currently pending before the Commission.

c. Extending Porting Beyond Rate Center Boundaries Would Give Large Wireless Carriers an Unfair Competitive Advantage Over Small and Rural Wireless Carriers

Although CTIA's Petition is directed at the obligations of landline carriers only, RTG believes that the requested relief also impacts the WNP obligations of wireless carriers. If the FCC continues to mandate WNP, it must further clarify the obligations of wireless carriers to port numbers to other wireless carriers. As CTIA correctly notes in the Petition, "[t]he key issue, well recognized for years, is whether the wireline rate center has any relevance for wireless number portability."⁶ RTG believes that WNP is, and should be, limited to intra-rate center ports.

RTG is concerned that the relief that CTIA now seeks, may by extension, provide an unfair competitive advantage to large wireless carriers over small and rural wireless carriers. This advantage would result from the fact that large wireless carriers sometimes provide some service to rural areas, including Rural Service Areas ("RSAs") and Basic Trading Areas ("BTAs") that cover predominantly rural areas,⁷ but such large carriers do not typically have a POP or numbering resources in such rural areas. Small carriers typically have licenses for and provide service to these rural areas but not to the adjacent urban areas at the heart of the MTA or Metropolitan Statistical Area ("MSA"). In terms of WNP, this dichotomy would create the unfair situation in which the rural wireless carrier is required to port numbers to the large carrier—because the large carrier's "service area" overlaps the rate center of the small wireless

⁶ Petition at 5.

⁷ This service is generally limited to serving the interstate highways passing through such rural areas.

carrier, but the large carrier is never required to port numbers to the small wireless carrier—because the small carrier does not have an MTA or MSA license covering the urban area in which the large carrier has rated numbers.

In the above example in Section II.b., under the precedent requested in the CTIA Petition, a small wireless carrier (“SmallCo”) providing service to the Albany area may be required to port its customers numbers to LargeCo, because LargeCo’s license/service area overlaps the area where SmallCo provides service and has rated numbers. The LargeCo, however, would never be required to port numbers to SmallCo, because SmallCo does not have the license for, nor does it provide service that overlaps the Minneapolis rate center. If this result is allowed to follow from the CTIA Petition, then it will confer a substantial and unfair competitive advantage to large wireless carriers over small carriers. This disparity would not benefit consumers and is not justifiable.

RTG requests that the Commission consider the implications of the CTIA Petition on wireless carriers’ obligations and clarify what if any impact do landline rate centers have on WNP. RTG requests that the FCC limit WNP to situations in which there is rate center overlap. If the FCC grants the Petition, however, the Commission must clarify that large carriers have an equal obligation to port customer’s numbers to small carriers when the two carriers’ service areas overlap even if the small carrier does not serve the same size geographic area or hold a license for, or provide service to the geographic rate center to which the large carrier has rated its numbers.⁸

⁸ In arguing for expanded LEC LNP obligations, CTIA states, “Put simply, porting must be done throughout the CMRS service area.” Petition at 17.

