Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

COMMENTS OF BELLSOUTH

BellSouth Corporation, by counsel and on behalf of itself and its wholly owned subsidiaries ("BellSouth"), respectfully responds to the *Public Notice* seeking comment on the petition for declaratory ruling filed by the Cellular Telecommunications and Internet Association ("CTIA").[1] CTIA asks the Commission to issue two declaratory rulings: (1) that wireline carriers have an obligation to port their customers' telephone numbers to a CMRS provider whose service area overlaps the wireline carrier's rate center and (2) that a wireline carrier's obligation to port numbers to a wireless carrier requires a service-level porting agreement between the carriers, not an interconnection agreement.[2]

The CTIA Petition does a thorough job of chronicling the history of the "rate center disparity" issue.[3] Indeed, as CTIA explains, this issue has been looming unresolved before the Commission for nearly five years. Clearly, this debate is not new and neither is the request for

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[1] *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, *Public Notice*, DA 03-211 (rel. Jan. 27, 2003) ("*Public Notice*").

[2] Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, CC Docket No. 95-116 (filed Jan. 23, 2003) ("CTIA Petition").

[3] *See* CTIA Petition at 4-12.

prompt action by the Commission. On several previous occasions, BellSouth has asked the Commission to address this outstanding issue.[4] BellSouth's most recent request was during the proceeding in which Verizon Wireless asked the Commission to forbear from requiring wireless carriers to comply with the number portability obligations.[5] The Commission not only refused to grant forbearance,[6] but also did not address the "rate center disparity" issue. Consequently, the industry is in the same position it was over five years ago; it is still seeking Commission guidance. Again, because there is nothing novel about the "rate center disparity" issue, the Commission should proceed with resolving this issue.

What is novel, however, is CTIA's suggestion that somehow wireline carriers are planning to thwart the efforts of customers seeking to port their numbers to wireless carriers.[7] This alleged "threat" by wireline carriers is the basis for the declaratory ruling. Section 1.2 of the Commission's rules provides that "[t]he Commission may . . . issue a declaratory ruling terminating a controversy or removing uncertainty."[8] BellSouth is unsure whether a "controversy" or "uncertainty" exists to warrant the declaratory ruling requested by CTIA.

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[4] *See* BellSouth Comments, North American Numbering Council Recommendation Concerning Local Number Portability Administration Wireline and Wireless Integration, CC Docket No. 95-116, NSD File No. L-98-94, at 8-9 (filed August 10, 1998); BellSouth Reply, North American Numbering Council Recommendation Concerning Local Number Portability Administration Wireline and Wireless Integration, CC Docket No. 95-116, NSD File No. L-98-94, at 7-9 (filed Aug. 31, 1998).

[5] *See* Reply Comments of BellSouth, Verizon Wireless Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 01-184 (filed Oct. 22. 2001).

[6] *Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, WT Docket No. 01-184 and CC Docket No. 95-116, *Memorandum Opinion and Order*, 17 FCC Rcd 14972 (2002).

[7] *See* CTIA Petition at 4, 16 ("CTIA is concerned that the wireline industry will improperly seek to limit their customers' ability to port numbers to wireless service providers.").

[8] 47 C.F.R. § 1.2.

BellSouth has no intentions of preventing a customer from porting his/her telephone number to a wireless carrier upon that customer's request – regardless of whether or not the carriers' service areas overlap. Thus, from BellSouth's perspective, number portability from wireline carriers to wireless carriers can still occur despite the "rate center disparity" issue.

In addition, CTIA's portrayal of wireless carriers being competitively disadvantaged by the "rate center disparity issue" is extremely one-sided. A review of the history of this issue demonstrates that wireline – not wireless – carriers were perceived to be the providers placed at a competitive disadvantage by this situation. According to the 1998 NANC Report, "[t]he difference in porting capabilities between wireless and wireline service providers with the existing method/architecture creates a significant competitive disadvantage to wireline service providers."[9]

The rationale behind this statement is that, because wireless carriers' service territories are not tied to rate centers, porting from a wireline to wireless provider is virtually unlimited. The customer's physical location is irrelevant when porting to or among wireless carriers. By contrast, porting from a wireless to a wireline provider is subject to limitations. Specifically, the end user must be physically located within the rate center associated with the NPA-NXX of the telephone number in order to effectuate a port to a wireline carrier. Clearly, this situation disadvantages wireline carriers – a fact that CTIA conveniently ignores.

Because the Commission is obligated to ensure that all aspects of the implementation of number portability are done in a competitively neutral manner and comply with its long-standing policies, the industry has repeatedly brought the "rate enter disparity" issue to the Commission

[9] North American Numbering Council, Local Number Portability Administration Working Group Report on Wireless Wireline Integration at 42 (May 8, 1998) (emphasis added) ("NANC Report").

for resolution. The Commission's policies strictly prohibit discriminating against a class of carriers. Long standing guidelines state that numbering administration should: (1) seek to facilitate entry into the communications marketplace by making numbering resources available on an efficient and timely basis; (2) not unduly favor or disadvantage any particular industry segment or group of consumers; and (3) not unduly favor one technology over another.[10]

Whether the declaratory ruling sought by CTIA is necessary is up for debate. However, what is unambiguous is the need for the Commission to address the "rate disparity issue" in meaningful advance of the November 23, 2003 deadline for implementing wireless local number portability ("wireless LNP"). In the absence of clear guidance from the Commission significantly prior to this date, wireless LNP will not be implemented in a competitively neutral manner. To avoid disadvantaging any carrier – wireless or wireline – the Commission must resolve this outstanding issue immediately so that wireless and wireline carriers have at least seven or eight months to develop the technical specifications and procedures necessary to implement wireless LNP on competitively neutral basis. If the Commission is unable to provide this guidance in a timely manner, it should consider an extension of the implementation date for wireless LNP until the "rate center disparity" issue is settled.

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[10] *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech – Illinois*, IAD File No. 94-102, *Declaratory Ruling and Order*, 10 FCC Rcd 4596, 4604, ¶ 18 (1995).

Respectfully submitted,

BELLSOUTH CORPORATION

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Date: February 26, 2003

CERTIFICATE OF SERVICE

I do hereby certify that I have this 26th day of February 2003 served the following parties to this action with a copy of the foregoing **COMMENTS OF BELLSOUTH** by electronic filing and/or by placing a copy of the same in the United States Mail, addressed to the parties listed below.

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+ VIA ELECTRONIC FILING