

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)	
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REPLY COMMENTS OF AT&T CORP.
CTIA PETITION FOR DECLARATORY RULING

Pursuant to the Commission’s Public Notice released January 27, 2003 (DA 03-211), AT&T Corp. (“AT&T”) submits these Reply Comments in response to the petition for declaratory ruling filed by the Cellular Telecommunications & Internet Association (“CTIA”) on January 23, 2003 (“CTIA’s Petition” or the “Petition”). CTIA asks the Commission to declare that wireline carriers have an obligation to port their customers’ telephone numbers to wireless carriers wherever their respective service areas overlap.¹ The comments demonstrate that CTIA impermissibly seeks to link wireless-to-wireless

¹ Petition, at 3 (“The Commission must confirm that wireline carriers have an obligation to port numbers to wireless carriers when their respective service areas overlap. In the case of wireless carriers, this generally means that numbers must be ported from a LEC to a CMRS carrier whose service area overlaps with the LEC’s service area.”).

number portability to wireline-to-wireless number portability. CTIA's Petition therefore should be denied, and the Commission should address the broad issues raised by the Petition in the proper rulemaking proceedings.

The comments of the carriers – many with substantial wireless ownership interests -- provide little support for expanding the scope of wireline-to-wireless local number portability obligations. The incumbent LECs strongly oppose CTIA's Petition, arguing that it would create an unworkable and anti-competitive expansion of wireline LNP obligations beyond their rate centers.² Several small local exchange carriers state that CTIA's Petition would impose insupportable regulatory and administrative burdens without generating substantial offsetting benefits.³ The smaller CMRS providers worry that CTIA's proposal favors the larger wireless carriers.⁴ ALLTEL, a diversified carrier providing both wireline and wireless services, questions the wisdom of expanding the

² See, e.g. Comments of SBC, at 5 (“SBC contends that the difference in scope of porting capabilities between wireless and wireline service providers does create a competitive disadvantage for wireline carriers that is inconsistent with the Commission’s objectives for numbering. . . . Wireline carriers are reporting the loss of access lines to wireless carriers at an increasing rate. . . . This change in the competitive landscape makes it even more important that the rate center issue be resolved in a manner creating more, not less, competitive parity.”).

³ Comments of OPASTCO, at 5-6 (“The problems [with CTIA’s proposal] outlined above would be disproportionately burdensome for rural ILECs due to their significant administrative costs and rural ILECs’ lack of economies of scale.”); Rural Iowa Independent Telephone Association (“RIITA”), at 3 (“RIITA’s members generally are in rate centers defined by their exchange boundary. Furthermore, very few of these rural independent companies have any direct physical interconnection with wireless carriers.”).

⁴ See, e.g. Rural Telecom Group, at 5 (“RTG is concerned that the relief CTIA now seeks, may by extension, provide an unfair competitive advantage to large wireless carriers over small and rural wireless carriers.”).

scope of wireline LNP obligations.⁵ Only the larger wireless carriers favor the imposition of wireline-to-wireless LNP obligations.⁶

CTIA asks the Commission to resolve outstanding issues related to wireline-to-wireless number portability “promptly, and well before the November 24, 2003 deadline for CMRS LNP.”⁷ The comments make it clear that issues related to wireline-to-wireless LNP are analytically distinct from wireless-to-wireless LNP and should not be linked to it. As the Public Utility Commission of Ohio states:

Now, for the first time since the FCC required CMRS compliance with local number portability, CTIA has taken a new tack and raises the new and unrelated issue of whether wireline carriers are obligated to provide portability of their customers’ telephone numbers to CMRS providers whose service area overlaps the wireline carriers’ rate centers. This issue has nothing to do with the CMRS companies’ compliance with the November 2003 deadline for instituting LNP and appears to be nothing more than subterfuge for the purpose of diverting attention away from the real issue of CMRS compliance with the established deadline for LNP deployment.⁸

⁵ Comments of ALLTEL, at 2 (“ALLTEL continues to believe from both its wireline and wireless perspectives, that WLNP is, at this time, an unjustified and ill-advised distortion to both the vigorously competitive CMRS market and to the currently chaotic wireline market. . . . WLNP will decimate the traditionally regulated local exchange industry which will soon awake to find itself competing head-to-head against deregulated nationwide bundled wireless service plans. . .”).

⁶ See Comments of AT&T Wireless Services, at 3 (“If wireless carriers are required to implement LNP, wireline carriers must be required to port numbers to wireless carriers anywhere within the wireless carriers’ service area.”). See also, Comments of Nextel, at 2-3; T-Mobile, at 3-5.

⁷ Petition, at 18.

⁸ Comments of Public Utility Commission of Ohio, at 6. See also, Rural Iowa Independent Telephone Association, at 1 (“Throughout its petition, CTIA expresses urgency in resolving the wireline porting to wireless issue because of the FCC’s ruling that wireless companies must port numbers to one another. Despite this claimed urgency, the two issues have nothing to do with each other. . . . The issue of wireline and wireless competition is different and one can be resolved without resolving the other.”).

No carrier presents convincing evidence that intermodal portability issues must be stamped through the Commission before the wireless-to-wireless LNP rules go into effect. If anything, the comments demonstrate that CTIA's Petition is premature.⁹

The large wireless carriers claim the local exchange carriers can readily port numbers outside of their landline rate centers, but simply choose not to do so.¹⁰ The LECs vigorously dispute this claim. SBC claims that the "rate center disparity" CTIA seeks to remedy is a product of the differences between wireline services, which SBC asserts are tethered to rate centers, and wireless services, for which rate centers are largely irrelevant.¹¹ NECA and NTCA contend that "[w]ireline carriers rely on the geographic association of an NPA-NXX with a rate center for call rating and routing, whereas wireless carriers need not assign subscribers telephone numbers based on

⁹ See, e.g. Comments of USTA, at 4 ("Moreover, it would be premature for the FCC to even consider the CTIA Petition prior to the D.C. Circuit's decision in the CTIA Appeal. We believe that it would be unjust for the FCC to impose increased LNP obligations on the ILECs to facilitate inter-modal competition with CMRS providers at the same time the D.C. Court of Appeals strikes down the LNP requirements for CMRS providers.").

¹⁰ See Comments of AT&T Wireless, at 6 ("[t]here is nothing about wireline-wireless porting that poses a technical issue or difficulty. As CTIA correctly explains, the rate center issue is not one of a "technical" nature, but rather, involves policy concerns."); Nextel, at 4; T-Mobile, at 11-12. Cf. Comments of NYDPS, at 4 and fn. 6 ("Given the large coverage areas of wireless carriers in metropolitan areas and suburban locations, porting from wireline to wireless carriers should not be an issue.").

¹¹ Comments of SBC, at 4. ("Although entirely reasonable, the rate center limitation to porting means that, in order for a wireless customer to switch to a wireline competitor and have his or her number ported to the new carrier, "the wireless end user must be located within the rate center associated with the NPA-NXX of the end user's telephone number.").

physical service locations of end users.”¹² USTA acknowledges that there is a difference in the scope of porting capabilities between wireless and wireline service providers, but states that it is both pro-competitive and consistent with the Commission’s local numbering objectives.¹³

Rather than providing substantial support for the dramatic expansion of wireline-to-wireless LNP obligations proposed by CTIA, the comments show that the industry is, in the words of T-Mobile, “hopelessly deadlocked” on the subject.¹⁴ There is no consensus in the industry concerning the proper scope of wireline carriers’ LNP obligations and complete discord on the proper timing and implementation of the Commission LNP rules. As United States Cellular states (at 2), the comments and the Petition make clear “the conflicting interests and profound differences of opinion which exist” between wireline and wireless carriers.

The record in this proceeding thus provides an insufficient basis upon which the Commission can resolve the contentious technical and policy issues raised by wireline-to-wireless local number portability. The issues CTIA raises may not properly be addressed in response to a petition for a declaratory ruling in any event.¹⁵ The comments suggest

¹² Comments of NECA and NTCA, at 3. *See also*, Comments of USTA, at 8 (“USTA agrees with the working group that “the inherent differences in service areas and terminal mobility” make it [sic] extremely difficult for wireless to wireline LNP.”).

¹³ Comments of USTA, at 6 (“Intra-modal and inter-modal competition is flourishing for both wireline and wireless telephony. . . . [W]e believe that speculation surrounding the customer benefits associated with the expansion of existing LNP requirements that CTIA seeks in its Petition has not been supported by credible documentation. USTA asserts that competition is occurring between wireline and wireless carriers unimpeded by the existing LNP obligations imposed on ILECs.”).

¹⁴ Comments of T-Mobile, at 2.

¹⁵ NECA and NTCA (at 2-3) state that a declaratory ruling would be improper because no uncertainty exists regarding the Commission’s rules. (“As CTIA itself

that what CTIA is seeking is tantamount to reconsideration of the Commission's prior rulings as codified in its LNP rules.¹⁶ Rather than resolve these issues in response to a request for a declaratory ruling, the Commission should assign them to rulemaking proceedings in which *all* of the significant issues - - and not simply the issues raised by CTIA - - can be addressed and resolved.¹⁷

AT&T agrees with comments urging the Commission to provide the North American Numbering Council ("NANC") and its Wireless-Wireline Integration Task Force with the assistance it needs to address comprehensively the issues associated with intermodal porting.¹⁸ The NANC undoubtedly has the responsibility to make appropriate recommendations to the Commission. As the comments make clear,

acknowledges, the Commission's rules limit wireline carrier portability to "rate center/rate district boundaries of the incumbent LEC. CTIA also acknowledges the Commission is thoroughly familiar with the so-called "rate center disparity" issue described in the *CTIA Petition*. Furthermore, CTIA acknowledges that the Commission previously sought and received industry comment on the issue, but to date, has not found it necessary to modify the LNP rule limiting portability to the wireline rate center.").

¹⁶ See, e.g. Comments of RIITA, at 2 ("What CTIA wants is not a resolution of an outstanding issue, but a reversal of the 1997 ruling. . . . Thus CTIA seeks an inappropriate remedy.").

¹⁷ *Id.* ("[I]f this earlier decision is to be reconsidered, it should be the subject of a rulemaking proceeding in which all the facts—not the CTIA allegations—are brought to bear on the issue of wireline-wireless local number portability."). See also, Comments of NECA and NTCA, at 5 ("Mandatory LNP implementation in the 100 largest MSAs, in lieu of the bona fide request process, is currently under consideration in the *LNP Further Notice* proceeding and should be resolved in that context, not as a declaratory ruling in response to the *CTIA Petition*").

¹⁸ See e.g. Comments of SBC, at 7 ("[T]he NANC needs direction from the Commission with respect to the rate center issue."); ALLTEL, at 4 ("Most of the detailed and complex requirements underlying implementation of WLNP have been left to the North American Numbering Council to determine with little, if any, input or supervision from the Commission. Little has been done to provide carriers with concrete guidance on WLNP implementation, either through clarification of the rules or formal adoption of the NANC recommendation.").

however, public notice and affirmative Commission action are required for any NANC recommendation to have full force and effect.¹⁹ The Commission has considered wireline-to-wireless local number portability issues in general, but it has barely begun to address the particular issues CTIA, the comments and the NANC have identified.

In clarifying the parameters of intermodal local number portability requirements, the Commission should give careful consideration to differences between the networks of the ILECs - - who have developed a switching topography based upon the location of the wire center - - and the CLECs and CMRS carriers, who have not,²⁰ and should exercise the same degree of care and forbearance as it has employed in developing its wireless-wireless local number portability requirements.²¹ As ALLTEL states, additional issues such as the timeframe in which intermodal porting must be achieved, the implications for E-911 service, the mechanics of intercarrier dispute resolution, and other issues “beyond the scope of the narrow WLNP implementation rules” remain to be addressed.²²

¹⁹ See, e.g. Comments of ALLTEL, at 4-5; Comments of AT&T Wireless, at 6.

²⁰ The ILECs generally have at least one central office switch per wire center and numerous wire centers. Telephone numbers are assigned for use within the wire center, and service outside of the wire center requires a number change. Due to the cost of infrastructure and switching, and the relatively small size of their customer base, CLECs generally enter a market with a single switch, which is often located in a metropolitan area that serves many wire centers and rate centers. CMRS carriers generally enter a market with a single switch serving a geographic area defined by cellular sites they have built or leased. Thus CLEC and CMRS customers’ telephone numbers should not be tethered to a particular wire center or rate center.

²¹ See, e.g. Comments of USTA, at 8-9 (“Should CTIA push the FCC to act on its Petition, it invites the FCC to engage in a lengthy, but necessary, exercise to examine the regulatory issues outside of LNP that impact fair inter-modal competition between wireless and wireline service providers, including the conditions upon which universal service support should be available to both.”).

²² Comments of ALLTEL, at 6-7. See also, Texas Commission on State Emergency Communications, at 2 (“[A]ny grant of relief requested by the CTIA petition must be clear, specific and not authorize any wireline carriers to ignore or fail to adhere to

Wireline-to-wireless LNP issues are no less important than the wireless industry's LNP rules, and must not be given short shrift.

Several of the comments raise questions concerning how the originating and terminating carriers will be compensated, if at all, for calls routed to numbers outside of the local exchange carriers' rate centers.²³ However, the Commission's existing rules provide the appropriate means of compensation for such calls,²⁴ and the Commission is reviewing those rules in its *Unified Intercarrier Compensation* proceeding.²⁵ AT&T agrees with SBC that the Commission can help the industry address the existing competitive disparity between wireless and wireline carriers,²⁶ but such questions need not and should not be resolved by the Commission in response to CTIA's Petition. They should be resolved in the Commission's *Unified Intercarrier Compensation* proceeding or other appropriate rulemaking proceedings.

adhere to existing rate center(s), 9-1-1 tandem(s) and/or 9-1-1 database(s) constraints needed to maintain proper E9-1-1 services in a local portability environment for wireline 9-1-1 services.”).

²³ See, e.g. Comments of NECA and NTCA, at 6-7; OPASTCO, at 3-4; SBC, at 4-5; WorldCom, at 2-3.

²⁴ See *Petition of WorldCom, Inc. et al., Memorandum Opinion and Order*, CC Docket Nos. 00-218, 00-248, 00-251, DA 02-1731 (rel. Jul. 17, 2002) (“*Virginia Arbitration Non-Price Order*”), ¶¶ 301-303.

²⁵ *Developing a Unified Intercarrier Compensation Regime, Notice of Proposed Rulemaking*, CC Docket No. 01-92, FCC 01-132 (rel. April 27, 2001).

²⁶ Comments of SBC, at 5. See also, Comments of WorldCom, at 3 (“[But] the Commission must inevitably turn its attention to the irrational intercarrier compensation rules that allow only some carriers effectively to consolidate rate centers on their own.”).

CONCLUSION

The comments make it clear that CTIA's Petition should be denied, and that the Commission should refer the issues raised to appropriate rulemaking proceedings.

Respectfully submitted,

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Dated: March 13, 2003