

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

In the Matter of)
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Telephone Number Portability) CC Docket No. 95-116
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To: The Commission

**REPLY COMMENTS OF CINGULAR WIRELESS LLC
ON CTIA PETITION FOR DECLARATORY RULING**

Cingular Wireless LLC (“Cingular”), a national wireless carrier, by its attorneys, submits the following reply comments on the petition for declaratory ruling filed by the Cellular Telecommunications and Internet Association filed January 23, 2003 (the “CTIA Petition”).¹ The initial comments filed in response to the CTIA Petition make clear that numerous problems imperil the successful implementation of local number portability (“LNP”) by wireless carriers.² These problems arise not only from the Commission’s failure to resolve the long-standing rate center issue but, in addition, from outstanding wireless-to-wireless porting issues. Thus, contrary to some commenters’ suggestions, the Commission cannot resolve the outstanding implementation issues simply by putting off intermodal porting because porting problems will

¹ See *Comment Sought on CTIA Petition for Declaratory Ruling that Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas*, Public Notice, DA 03-211 (rel. Jan. 27, 2003).

remain in the wireless-to-wireless context. Thus, the Commission must initiate a rulemaking proceeding to resolve these problems before implementation can proceed. Finally, to go forward solely with wireless-to-wireless porting would stand on its head the statutory imperative that LECs must provide LNP.

I. THERE ARE SERIOUS WIRELESS-TO-WIRELESS PORTING ISSUES WHICH ALSO MUST BE RESOLVED IN A RULEMAKING BEFORE WIRELESS LNP CAN BE IMPLEMENTED

The CTIA Petition focuses on “rate center disparity” – an issue that arises primarily in the case of ports between wireline and wireless carriers. As commenters have pointed out, the rate center problem raises rating, routing and intercarrier compensation issues. These same issues are raised in wireless-to-wireless ports. Other issues exist as well, some of which apply solely with wireless-to-wireless ports.

Indeed, the rate center disparity issue itself can arise in cases of wireless-to-wireless ports. A wireless carrier assigns each of its customers a unique telephone number associated with a rate center. If a customer ports a number from one wireless carrier to another, the ported number will become associated with the location routing number (“LRN”) of the recipient carrier. The LRN of the recipient carrier will determine the routing of the ported number. Thus, calls to the ported number may be rated in one rate center (the ported-out carrier’s rate center) and routed to another rate center (the ported-in carrier’s rate center) which may be located in another local calling area. One commenter has questioned whether calls to and from the ported number (when rated in one rate center and routed to another), previously rated as local, may now

² See BellSouth Comments at 4.

be rated as a toll call.³ If so, such calls would result in wireline and wireless customer confusion and dissatisfaction. Further, the rating in one rate center and routing to another rate center in wireless to wireless porting raises the same intercarrier compensation issues as with wireline-to-wireless porting.⁴

Another example of an unresolved issue with wireless-to-wireless porting is the procedure for porting a number held by a wireless customer that is provisioned through Type 1 interconnection with a LEC.⁵ These telephone numbers physically reside in wireline switches, and calls are routed to them through wireline end office switches to the Type 1 Interconnection Trunk Groups. Calls are then routed through the Type 1 trunk groups to the wireless switch where they are terminated to the wireless customer.

Porting telephone numbers associated with Type 1 interconnection wireless service involves a wireline carrier even if the customer is moving from one wireless carrier to another. The porting process in this instance will require close coordination among the new wireless provider, the old wireless provider and the LEC. The industry has developed procedures for the migration of numbers associated with Type 1 Interconnection Arrangements. However, the industry has not yet developed an agreed-upon a process for ports involving Type 1 numbers.

³ See OPASTCO comments at 2.

⁴ See NECA comments at 6.

⁵ Many wireless carriers, particularly those that were licensed prior to the passage of the Telecommunications Act of 1996, hold large amounts of Type 1 numbers.

Thus, it remains unclear how (or whether) such ports can be performed once the November 24, 2003 deadline arrives.⁶

In the wireline context, the Commission sought a recommendation from the North American Numbering Council (“NANC”) regarding how LNP should be implemented, remained attentive to the process to ensure that a useful recommendation emerged from the NANC, and then incorporated that recommendation by reference into the Rules.⁷ The Commission is correct, in situations such as these, to rely on the industry in the first instance to produce recommendations on how to implement technical mandates. But at this point, the rate center and Type 1 issues are unresolved. Thus, a rulemaking proceeding is needed to implement wireless LNP for both wireless-wireless and wireless-wireline ports.

If the Commission wishes to require wireless carriers to provide LNP, it must not only resolve the rate center and Type 1 interconnection issues but ensure that the parameters of those obligations are clear to, and enforceable by and against, all parties. Such parameters are needed not only for carriers to port among themselves but also to explain to customers how porting of a number may affect their service. The record in this proceeding demonstrates that such clarity is sorely lacking today.

⁶ This issue was raised in BellSouth’s reply comments on the LNP forbearance petition. See BellSouth reply comments, WT Docket No. 01-184 (filed Oct. 22, 2001).

⁷ See 47 CFR § 52.26.

II. DELAYING INTERMODAL PORTABILITY WHILE MAINTAINING THE WIRELESS-TO-WIRELESS REQUIREMENT IS LEGALLY UNSOUND

Faced with the problems raised by the CTIA Petition, some commenters urge the Commission to allow wireless-to-wireless porting to proceed as scheduled, even if further action delays portability between wireless and wireline carriers.⁸ This would be the wrong course of action. Many issues raised by commenters on wireline-to-wireless porting are applicable to wireless-to-wireless porting as well

Delaying portability only with regard to ports between wireless and wireline carriers would be inconsistent with the statutory imperative that LECs must provide LNP.⁹ The extension of the obligation to CMRS carriers is entirely the product of *Commission* regulation.¹⁰ The statute imposes no such obligation on wireless providers, and specifically states that CMRS carriers are not LECs.¹¹ Thus, imposing LNP only on ports between CMRS carriers would turn the statutory framework on its head. The Commission's wireless LNP requirement is a cohesive whole that should not be dealt with piecemeal. If wireless carriers must participate in LNP, they should be able to port with wireline as well as wireless carriers.

⁸ See, e.g., Illinois Citizens Utility Board comments at 6; California PUC comments at 4-6.

⁹ See 47 USC § 251(b)(2).

¹⁰ *Telephone Number Portability*, Report & Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8431 (1996) ("*LNP First Report & Order*").

¹¹ 47 USC § 153(26). Indeed, Cingular has challenged the FCC's authority to impose LNP on CMRS carriers. See *Cellular Telecommunications & Internet Ass'n and Cellco Partnership d/b/a/ Verizon Wireless v. FCC*, Case No. 02-1264 (D.C. Cir. pending), Brief of Intervenors in Support of Petitioners (final version filed Feb. 24, 2003).

CONCLUSION

The record developed in response to the CTIA Petition demonstrates that the Commission must resolve significant intermodal and wireless-to-wireless LNP issues in a separate rulemaking. The rulemaking proceeding must be concluded before wireline-to-wireless or wireless-to-wireless LNP can be implemented.

Respectfully submitted,

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