

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)	

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

Pursuant to the Commission’s Public Notice released May 22, 2003 (DA 03-1753), AT&T Corp. (“AT&T”) submits these Comments in response to the petition for declaratory ruling filed by the Cellular Telecommunications & Internet Association (“CTIA”) on May 13, 2003 (the “*Petition*”). CTIA raises several issues in an attempt to delay the Commission’s November 24, 2003 deadline for implementation of intramodal local number portability (“LNP”). Because the issues relate predominantly to intermodal LNP, the Commission should deny the *Petition* and should refer the issues raised to an appropriate rulemaking proceeding.

On January 23, 2003, CTIA filed a petition seeking a declaratory ruling that a wireline carrier has an obligation to port its customers’ telephone numbers to any CMRS carrier whose service area overlaps the wireline carrier’s rate center.¹ In the *Rate Center*

¹ See Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association (filed January 23, 2003) (“*Rate Center Petition*”).

Petition, CTIA stated that if wireless-to-wireless number portability is to go forward on the basis and timetable the Commission has ordered, the Commission must remove any uncertainty concerning the obligation of wireline carriers to port numbers to wireless carriers.² CTIA asked the Commission to resolve these issues as expeditiously as possible, but in all events prior to November 24, 2003, the Commission's deadline for implementing wireless-to-wireless local number portability.³

The comments filed in response to the *Rate Center Petition* demonstrated that CTIA had impermissibly sought to link the implementation of wireless-to-wireless number portability to the resolution of issues related to wireline-to-wireless number portability.⁴ The vast majority of the carriers - - many with substantial wireless ownership interests - - opposed the dramatic expansion of the scope of wireline-to-wireless local number portability obligations sought by CTIA. The ILECs argued that it would create an unworkable and anti-competitive expansion of wireline LNP obligations.⁵ Several small local exchange carriers stated that CTIA's petition would

² *Rate Center Petition*, at 3.

³ *Rate Center Petition*, at 18.

⁴ *See, e.g.*, Comments of Public Utility Commission of Ohio, at 6 ("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.")

⁵ *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

(footnote continued on next page)

impose insupportable regulatory and administrative burdens without generating substantial offsetting benefits.⁶ The smaller CMRS providers expressed concern that CTIA's proposal would favor the larger wireless carriers.⁷ Only the larger wireless carriers favored the imposition of wireline-to-wireless LNP obligations.⁸ The majority of the comments concluded that the *Rate Center Petition* should be denied, and a number of comments agreed with AT&T that the Commission should address issues related to intermodal portability in a separate rulemaking proceeding.⁹

On May 13, 2003, CTIA filed the instant petition seeking clarification of several additional issues relating predominantly to wireline-to-wireless intermodal number portability rather than to the intramodal wireless-to-wireless portability that must be

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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.”).

⁶ See, e.g., 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.”).

⁷ See, e.g., Comments of Rural Telecom Group, at 5 (“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.”).

⁸ 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.

⁹ See, e.g., Reply Comments of AT&T, at 5-6; BellSouth, at 1-2; California PUC, at 4; Cingular Wireless, at 1-2; McLeod USA, at 1-2; USTA, at 3-4; Valor at 7.

implemented by the November 24, 2003 deadline. Specifically, CTIA seeks a declaration from the FCC that carriers may not impose a delay in the “porting interval,” defined as the amount of time it takes for two service providers to complete the process of porting a telephone number when a customer changes providers but keeps the same telephone number.¹⁰ CTIA candidly admits that this porting interval issue “predominantly affects LEC-CMRS ports” and only affect the CMRS-CMRS ports required by the existing deadline if CMRS providers refuse to cooperate.¹¹ CTIA further requests that carriers not be required to enter into “unwieldy and unnecessary” interconnection agreements with wireline carriers in order to implement the operational aspects of number portability.¹² This also is an issue relating to intermodal number portability, and not to wireless intramodal number portability mandated to be in place by November 24, 2003.¹³ CTIA claims, as it did in the *Rate Center Petition*, that these issues “must be addressed in sufficient time to permit the scheduled November 24, 2003 introduction of wireless

¹⁰ *Petition*, at 7.

¹¹ *Id.* at 8. (“While this issue predominantly affects LEC-CMRS ports, it may also delay CMRS-CMRS ports where certain CMRS providers may refuse to complete a port within the agreed-upon time frames established by industry working groups.”).

¹² *Id.* at 6.

¹³ CTIA also claims (at 23-24) that the Commission must address several issues that are “less universal in scope than the porting interval and nature of agreement issues . . . [that] tend to affect competition and consumption in a more geographically localized way” including the rating and routing dispute between BellSouth and Sprint, BellSouth’s claims with respect to CMRS providers utilizing Type 1 Interconnection, and several “CMRS specific” issues, including the definition of the top 100 MSAs, the continued viability of the *bona fide* request requirement, and support for nationwide roaming.

number portability,” stating that implementation will be precluded if the Commission fails to rule by September 1, 2003.

Barely three months have passed since the reply comments were filed in response to the *Rate Center Petition*. In that short period of time, nothing has occurred to change the conclusions reached by the vast majority of the comments filed in that proceeding. There were then, and there are today, no grounds for stampeding intermodal portability issues through the Commission before the wireless-to-wireless LNP rules go into effect. If anything, the *Petition* demonstrates there are additional, complex issues to be addressed that go well beyond the scope of wireless-to-wireless local number portability, making it imperative that the Commission institute a separate proceeding to address the scope of the carriers’ porting responsibilities.

The additional issues CTIA has raised - - such as the timeframe in which intermodal porting must be achieved, the implications for E-911 service, and the daunting mechanics of intercarrier dispute resolution - - are significant to the industry and to consumers, and must not be overlooked by the Commission in a rush to implement local number portability.¹⁴ Despite the best efforts of the North American Numbering Council and the industry to reach consensus, these issues have been intractable. There is no consensus in the industry today concerning the proper scope of wireline carriers’ LNP obligations, confusion and concern over the ILECs’ claims that numbers cannot be ported

¹⁴ See Comments of ALLTEL, at 6-7; 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 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.”).

outside of their rate centers, and almost complete discord on the proper timing and implementation of the Commission's LNP rules. As CTIA correctly acknowledges, "what remain for Commission resolution are the obstacles seemingly immune from consensus yet critical to achieving number portability."¹⁵

CTIA nevertheless claims that the Commission must expeditiously resolve these *intermodal* portability issues as a prerequisite to the November 24, 2003 implementation of wireless *intramodal* portability. Yet, as CTIA accurately concedes, while the Commission has considered wireline-to-wireless local number portability issues in general, the Commission has barely scratched the surface of the additional issues CTIA has raised.¹⁶

AT&T agrees with CTIA that there are significant issues that must be resolved before intermodal number portability can be achieved. However, the Commission need not, and should not, unduly rush to decide these matters, which are predominantly irrelevant to intramodal number portability. Instead, the Commission should devote the time and resources needed to ensure that intermodal portability issues are carefully considered and comprehensively resolved. In doing so, the Commission should resolve

¹⁵ *Petition*, at 2-3 ("While industry working groups successfully resolved most of these issues, what remain for Commission resolution are the obstacles seemingly immune from consensus yet critical to achieving number portability as it was conceived in the *LNP First Report and Order*. These obstacles . . . are now being mirrored by some wireless carriers. Whether they fear the impact of additional competition that may result from number portability, or because they have different cultures and differing interpretations of their legal obligations, the wireline and wireless industries have reached an impasse that requires Commission resolution.").

¹⁶ *Petition*, at 7 ("[T]he Commission has failed to address the time interval in which intermodal and intramodal wireless ports must be achieved nor has it definitively resolved the implications that the porting interval will have on E911 services.").

the discord that has arisen in the industry concerning the ILECs' claims that numbers cannot be ported outside of their wire centers, by giving 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,¹⁷ and should exercise the same degree of care and forbearance as it has employed in developing its wireless-to-wireless local number portability requirements.¹⁸ Wireline-to-wireless LNP issues are no less important than the wireless industry's LNP rules, and must not be given short shrift.

¹⁷ 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.

¹⁸ *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.”).

CONCLUSION

CTIA's *Petition* should be denied, and the Commission should refer the issues raised to appropriate rulemaking proceedings.

Respectfully submitted,

AT&T CORP.

By /s/ Richard A. Rocchini

Lawrence J. Lafaro
Stephen C. Garavito
Richard A. Rocchini

Its Attorneys

One AT&T Way
Room 3A227
Bedminster, NJ 07921
(908) 532-1843

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