

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

COMMENTS OF QWEST CORPORATION

I. INTRODUCTION

Qwest Corporation (“Qwest”) files these Comments with the Federal Communications Commission (“Commission”), in response to the *Public Notice* seeking comment on the “Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association” (“*CTIA Petition*” or “*Petition*”).¹ Qwest here focuses on a single issue among those raised by CTIA -- the need to change number porting intervals within the context of wireline/wireless number portability. Wireline carriers spent years developing the appropriate porting intervals to fairly deploy both simple and complex ports. To change these porting intervals would require substantial investment, costs and resources, both system and human. Accordingly, the Commission should not require wireline carriers to reduce porting intervals within the context of wireline and wireless porting.

A “porting interval is 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.”² As the *CTIA Petition* describes, wireless and wireline carriers have been in discussions for a number of years over whether the porting intervals adopted for wireline

¹ The *CTIA Petition* was filed May 13, 2003. *And see Public Notice*, DA 03-1753, rel. May 22, 2003.

² *CTIA Petition* at 7.

carriers should be changed due to the advent of wireless local number portability (“WLNP”).³ Still no consensus has been reached with regard to the most appropriate porting intervals within the context of wireless/wireline number portability. The lack of a common position has been made clear to the Commission in various reports filed by the North American Numbering Council (“NANC”), beginning in 1998.⁴

Despite the significant differences of opinion between wireline and wireless carriers regarding porting intervals, the Commission is not free to “declare,” as requested by the *CTIA Petition*, that porting intervals different from those incorporated in 47 C.F.R. § 52.26(a) should be established. Under the Administrative Procedure Act (“APA”), the Commission must promulgate changes or amendments to its existing rules through a proper rulemaking. In the context of such rulemaking, it is required to weigh the costs and benefits of rule amendments. Qwest is confident that, within the context of such a rulemaking, the cost/benefit evidence would not support changing wireline porting intervals simply because of the advent of WLNP.

II. THE COMMISSION SHOULD NOT CHANGE WIRELINE PORTING INTERVALS

Contrary to CTIA’s advocacy, a materially shorter porting interval than that incorporated in 47 C.F.R. § 52.26(a) for wireline carriers (adopting a four-day porting interval)⁵ has not been

³ *Id.* at 8-11.

⁴ *Id.*, describing the three reports filed by the NANC. As CTIA correctly notes, only the *NANC First Report* (see *North American Numbering Council Local Number Portability Administration Working Group Report on Wireless Wireline Integration*, May 8, 1998) was put out for public comment (the Common Carrier Bureau sought comment on it in June, 1998); and no formal action has been taken by the Commission with respect to any of the NANC Reports. *Id.* at 10-11.

⁵ 47 C.F.R. § 52.26(a) states that “Local number portability administration shall comply with the recommendations of the . . . [NANC] as set forth in the report to the Commission prepared by the NANC’s Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*) and its appendices, which are incorporated by reference” The current porting intervals for wireline carriers include a maximum of one day for the Firm Order Process (“FOC”) and three days for the porting process.

proven by the *CTIA Petition* to be in the public interest. CTIA has not demonstrated that the current porting intervals are inefficient, at odds with customer control or satisfaction, or a threat to public safety.⁶ Nor has it shown that the existing (mandated) wireline porting intervals “will stifle competition and cause consumers to hesitate to change service providers.”⁷ Indeed CTIA could not prove this allegation, since the existing local number portability (“LNP”) intervals have provided the foundation for increased and maturing wireline competition.

A. Wireline Porting Intervals Cannot Be Changed Without A Rulemaking

CTIA ignores established regulatory mandates regarding porting intervals when it argues that “wireline carriers refuse to implement an efficient porting interval that is beneficial to consumers and protects public safety.”⁸ On the contrary, the porting intervals incorporated in 47

⁶ Throughout its *Petition*, CTIA raises the specter of public safety impairment because of potential 911 problems. See *CTIA Petition* at 5, 11-13. The *Second and Third NANC Reports* also address the issue of WLNP and 911. See *North American Numbering Council Local Number Portability Administration Working Group Second Report on Wireless Wireline Integration*, June 30, 1999, filed Nov. 4, 1999 (“*NANC Second Report*”) at Section 5.3 and *North American Numbering Council Local Number Portability Administration Working Group Third Report on Wireless Wireline Integration*, filed Nov. 29, 2000 (“*NANC Third Report*”) at Section 4.3. However, in the cover letter to the *Third NANC Report*, Mr. John R. Hoffman, NANC Chair, stated that the Local Number Portability Administration had “consulted with the National Emergency Number Association (NENA),” and that -- while NENA was not comfortable “with any situation that might impede E911 service” -- they “agreed that the probability that [such] situation might occur was very low and did not see this as a ‘show stopper’ to” the proposals made in the NANC Reports. See Letter from Mr. R. Hoffman to Ms. Dorothy Attwood, Chief, Common Carrier Bureau, dated Nov. 29, 2000.

⁷ *CTIA Petition* at 15. CTIA argues that the length of a porting interval will affect a consumer’s decision to change carriers. *Id.* at 14. In support of its position, it cites to a JP Morgan report suggesting that this notion is “intuitive.” *Id.* at n.40. That article references “porting periods greater than a week” -- which is longer than the current standard porting intervals for wireline carriers. The report points to those lengthy porting periods, and the minimal impact from wireless number portability churn in certain countries, as “indicating that the porting period was a concern for consumers.” *Id.* The article does not specifically state that consumers are concerned with porting intervals of less than a week. Indeed, the way the statements in the report are written, just the contrary is suggested.

⁸ *Id.* at 13.

C.F.R. § 52.26(a) were negotiated by the wireline industry as reflecting efficient intervals. And the Commission incorporated those intervals in formal rules adopted in the public interest.

The Commission is not free to change the current wireline porting intervals in response to the *CTIA Petition*. Declaratory rulings are only appropriate in limited circumstances to resolve ambiguity, terminate controversy or remove uncertainty.⁹ Such rulings are not appropriate to amend existing -- quite unambiguous -- rules or to enact new rules.¹⁰ Since existing Commission rules incorporate the current wireline porting intervals, the APA requires that a further rulemaking be conducted to change them.¹¹

Within a rulemaking proceeding, the persistent differences of opinion between wireline and wireless carriers regarding porting intervals could be vetted. The Commission could then make a decision regarding an appropriate porting interval based on a full record and consideration of the costs and benefits associated with different approaches.

B. Wireline Porting Intervals Are Compatible With WLNP And Should Not Be Disturbed At This Time

CTIA fails to make a case to support its fundamental argument that existing wireline porting intervals are incompatible with WLNP. Number porting between wireline and wireless carriers can certainly occur utilizing these intervals. Moreover, changing the intervals with the advent of WLNP would not be in the public interest.

⁹ 47 C.F.R. § 1.2, the Commission may “issue a declaratory ruling terminating a controversy or removing uncertainty.”

¹⁰ *See Ortho-Vision*, 69 FCC 2d 657 (1978), *on recon.*, 82 FCC 2d 178 (1980), *affirmed sub nom. New York State Commission on Cable Television v. FCC*, 699 F.2d 58 (2nd Cir. 1982). *And see In the Matter of North American Telecommunications Association Petition for Declaratory Ruling Under Section 64.702 of the Commission’s Rules Regarding the Integration of Centrex, Enhanced Services, and Customer Premises Equipment, Memorandum Opinion and Order*, 101 FCC 2d 349, 371 ¶ 54 (1985).

¹¹ *See* 5 U.S.C. § 553.

1. Shortening Porting Intervals Would Require Material System Changes

Before the four-day porting interval was incorporated into the Commission's rules, wireline carriers across the country negotiated and agreed to the interval as appropriate to accommodate different systems and processes.¹² If the current porting interval were changed to any material degree, carriers like Qwest -- as well as wireline carriers nationwide -- would be required to make significant changes to their Operation Support Systems ("OSS") and other systems,¹³ with the substantial concomitant costs that such changes would entail.

Moreover, the necessary blueprint outlining the numerous tasks required to accomplish the varied systems changes to support shorter porting intervals has not been undertaken. The various NANC Wireline Wireless Integration Reports do a fair job of identifying systems that would be impacted by shortening current wireline porting intervals (primarily ordering and provisioning systems). Yet the Reports offer little substantive guidance regarding how the system issues identified should be resolved.¹⁴ Fundamentally lacking is a detailed analysis addressing the technical foundation necessary to support a change from the current wireline porting interval *status quo*.

CTIA makes the unsupported remark that current porting intervals are the result of wireline carriers' refusals to "modernize [their] porting process."¹⁵ Yet it provides no evidence to support its position. Contrary to CTIA's argument, it was only because Qwest made

¹² *NANC First Report* at Section 3.3.2.4-.6.

¹³ *See id.* at Section 3.3.2.4 (outlining generally some of the OSS' and other systems that would be affected by a change in the porting interval).

¹⁴ In addition to the discussion in the *NANC First Report*, discussions of systems that would be impacted by changing porting intervals are also addressed in the *NANC Second Report* at Section 3.3 and the *NANC Third Report* at Section 3.4.

¹⁵ *CTIA Petition* at 10.

deliberate system enhancements and service delivery modifications that it became capable of accomplishing most simple ports within three days rather than the standard four-day process.

It is true that wireline carriers have certain expectations regarding porting intervals; and their systems, processes and budgets reflect these expectations. Indeed, given that wireline porting intervals are currently incorporated in Commission rules, it would have been imprudent for those carriers to have engaged in massive system changes to create porting intervals outside the scope of existing practice. Not only would such changes have been costly for individual carriers, but they would have likely created a negative impact on other wireline carriers with whom porting was occurring.

With respect to possible future modifications to wireline carriers' systems to shorten porting intervals, it is axiomatic that no carrier system changes happen without costs; and those costs are ultimately recovered from consumers. Qwest's customers are still being assessed a monthly number portability end-user charge to recover the costs of the initial implementation of LNP.¹⁶ Because changes to the wireline porting intervals would require modifications to Qwest's OSSs and service delivery procedures, price regulated carriers such as Qwest would have to be extended the opportunity to recovery any costs attributable to implementing such changes. As with any other proposed rule change, the Commission would have to balance predictable industry costs against any identified benefits before prescribing a new rule.

¹⁶ See U S WEST Transmittal No. 1002, filed July 2, 1999, in which Qwest identified \$361,596,757 in recoverable network, OSS, and service delivery costs incurred but for the implementation of the federal LNP program.

2. Changing Porting Intervals May Require Modifications to Number Portability Administration Center (“NPAC”) Functionality

The NPAC system currently accomplishes porting, at least in part, through designated porting “timer types.”¹⁷ These settings are broken out into “Port Out and Port In-Short” and “Port Out and Port In-Long.” The long timers are those that were established for wireline carriers with the advent of LNP. In 1999, the NPAC created the capability -- at the request of wireless carriers -- to shorten porting timer settings for wireless-to-wireless ports, creating the “Short” timer types.

Wireline carriers have longer porting timer settings than wireless carriers in large part due to the differences in network and system configurations. Wireline carriers often are constrained by the provisioning of physical facilities (*e.g.*, loops) to serve customers and are regularly required to administer complex as well as simple ports.¹⁸

Under the current NPAC design, if carriers with different porting timer settings engage in porting activity, *i.e.*, porting between wireline and wireless carriers, the NPAC will default the porting activity to the longer of the porting timer settings -- the wireline settings.¹⁹

Changing porting intervals may require the current NPAC default design to be changed. An enhancement may be required to allow service providers to select specific porting timer settings (*i.e.*, long or short) depending on the needs of a specific porting order. Without the

¹⁷ These timer types are described in the North American Numbering Council document entitled “Functional Requirements Specification,” Release 3.1.0, August 31, 2001, at Section 1.2.12.

¹⁸ See *NANC Second Report* at Section 1.1 (Item 6), Section 5; *NANC Third Report* at Section 3.1 for discussions of simple versus complex ports.

¹⁹ In the table found in the Specification document cited in note 17 above, it states “When the new service provider supports short timers and the old service providers supports long timers for a subscription version port long timers will be used. The new service provider who supports the short timers will have to recognize that the long timers are being used instead of the expected short timers.”

ability for carriers to set porting timer settings for each port that reflect the particular circumstances of that port, a wireline carrier could be forced to use short porting timers, even for orders with large quantities of numbers (complex ports). This situation could compromise the ability of a wireline carrier to verify the accuracy of telephone numbers to be ported.

It will take time for the industry to define what the impact to the NPAC may be to either change the current and default porting timer settings or to devise a common setting, to define new system requirements, and to test and deploy the necessary changes. Additionally, in parallel with any NPAC changes, carriers would have to modify their internal systems and processes to assure that the NPAC received the appropriate porting timer settings with respect to each specific port.²⁰ Clearly there would be costs associated with this work effort that would need to be recovered.

3. Porting Intervals Should Not Create Significant Competitive Imbalances

Without doubt, shortening wireline porting intervals would affect not only ports between wireline and wireless carriers but ports among wireline carriers, as well. Accomplishing a wireline-to-wireline port in 2.5 hours (the porting interval being discussed by wireless carriers for wireless-to-wireless ports) would impose significant obstacles (at least based on current Qwest systems) on Qwest's Wholesale Service Center. Based on Qwest's current porting volumes, over 65,000 ports a month could be affected by a potential change in the porting interval.

Many port requests from competitive local exchange carriers ("CLEC") are not "simple ports" but involve multiline accounts or "complex ports," which take longer to accomplish. The current wireline porting intervals essentially operate to "average" porting durations, so that there

is no deployment difference between a “simple port” and a “complex one.” CTIA has not made a persuasive case that this averaging should be eliminated, leaving in the wake of its elimination a lack of competitive neutrality with respect to different carriers and different customers.

4. The Advent of WLNP Is Not The Time To Change Existing Wireline Porting Intervals

Even if changing porting intervals for wireline carriers could be demonstrated to be in the public interest in the long run, it would not be prudent to change those porting intervals contemporaneously with the initiation of WLNP. WLNP is expected to bring about increased volumes in porting requests, but the exact demand or how it will present itself is unknown at this time. Thus assessing the exact impact of WLNP on wireline systems is impossible.

The Commission would benefit from having some experience with wireline/wireless portability before it embarks on changing porting intervals. For this reason, the Commission should allow WLNP to be deployed within the context of the current porting intervals and assess the impact of those intervals on wireline and wireless porting before considering any changes to the current wireline porting intervals.

III. CONCLUSION

For all of the above reasons, the Commission should reject CTIA’s request that the Commission declare the porting intervals incorporated in existing Commission rules inappropriate with respect to WLNP. If the Commission believes that further investigation of the matter is warranted, including an analysis of whether wireline porting intervals continue to be efficient and competitively appropriate, it should initiate a rulemaking to secure facts regarding the costs and benefits of remaining with the current intervals or changing them.

²⁰ Resolution of the matter of hours of operation would also be necessary in the context of wireless and wireline porting.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST CORPORATION** to be 1) filed with the FCC via its Electronic Comment Filing System, 2) served, via email on the FCC's duplicating contractor Qualex International, Inc., and 3) served, via First Class United States mail, postage prepaid, on the party listed on the attached service list.

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