

**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

**COMMENTS OF VERIZON WIRELESS
ON THE PETITION FOR DECLARATORY RULING OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

Verizon Wireless submits these initial comments in response to the May 13, 2003 petition for declaratory ruling filed by the Cellular Telecommunications & Internet Association (“CTIA”) related to implementation of local number portability (“LNP”).¹

With a little over five months remaining before customers will expect to be able to port their landline or wireless numbers to a new wireless provider, Verizon Wireless urges the Commission to take immediate action to ensure that the customer experience will be enhanced, not complicated, by the availability of number portability. As Verizon Wireless has demonstrated to the Commission in the past, number portability is a complex, interdependent process that requires cooperation between multiple carriers, vendors and the customer. But customers will view a request to bring along an existing telephone number as a simple one. If

¹ Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, *Telephone Number Portability*, CC Docket No. 95-116 (filed May 13, 2003) (“*Second CTIA Petition*”).

customers are denied ports, or are forced to face delays in service, the purported consumer benefits of LNP will be undermined. The Commission must intervene to ensure that carriers enter into “barrier-free” porting contracts over the next few months and to resolve outstanding disputes relating to the porting process.

The CTIA petition raises a number of important unresolved issues relating to how LNP will work for customers wishing to port their number between landline and wireless services. Due to the significant press coverage on LNP, customers will likely have high expectations that they will be able to “cut the cord” and retain their longstanding wireline numbers when signing up for a new wireless service. But, presently there are no agreed-upon industry standards governing landline/CMRS porting² and CTIA has identified many disputes among carriers as to what obligations exist. The FCC needs to step in where the industry process has stalled and provide clarity on how inter-modal porting is to work in November. Without clarity on how quickly wireless and landline carriers should port to each other and on whether customers’ wireline rate center will determine their participation in wireless LNP, it will be nearly impossible to complete wireline/wireless negotiations. Carriers will also be hampered in launching effective campaigns for customers to port their numbers between landline and wireless services.

While the CTIA petition is focused primarily on outstanding wireless/wireline porting conflicts, the FCC must to confirm the ground rules for porting between all types of carriers, wireless/wireless and wireless/wireline. Presently, the rules for wireless portability consist only of a bare mandate for wireless carriers to upgrade their systems to provide LNP by November 2003, without any standards on how the interdependent porting process should work.

² Standards exist for landline-to-landline porting, but those standards specifically do not apply to landline-to-wireless porting. *See* NANC LNPA Selection Working Group Report (April 25, 1997) at § 3.1. The Report is incorporated by reference into 47 CFR § 52.26(a).

The Commission directly, or through NANC working groups, has looked appropriately to the industry to develop the complex technical standards to govern the porting process and to negotiate bilateral agreements to facilitate inter-carrier communication and exchange of information. Unlike in the wireline-to-wireline context, the Commission has not provided any legal force behind the voluntary industry standards, or provided any regulatory incentives,³ to enable compliant companies to negotiate effectively with resistant companies. Yet, the Commission has pointed repeatedly to market failures that would prevent wireless carriers from agreeing to port with one another as the reason for why the LNP mandate is necessary.⁴ Given that the Commission based its LNP mandate on concerns over market failure, it would make no sense for the Commission to rely completely on that same market to establish the inter-carrier porting process. A system so reliant upon bilateral commercial negotiations requires the FCC to resolve conflicting interpretations between carriers of what it means to provide local number portability.

A. No Barriers to Porting

As Verizon Wireless has stated previously, the Commission should make clear that carriers may not impose restrictions on the porting-out process, beyond necessary customer validation requirements to prevent fraud.⁵ The public interest will be best served by allowing customers to move freely and quickly between carriers. A customer's decision to move from one carrier to another should not be complicated or delayed because of local number portability.

³ For example, unlike wireless carriers, RBOCs have strong incentives to participate in porting in good faith because LNP is included as one of the "checklist" items in the process for achieving approval to provide interLATA service. See 47 U.S.C. § 271.

⁴ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996); See Reply Brief for Petitioners at 18, *Cellular Telecommunications & Internet Association and Cellco Partnership, d/b/a/ Verizon Wireless v. FCC* (D.C. Cir.) (No. 02-1264) (decided June 6, 2003).

⁵ See Letter from John T. Scott, III, Verizon Wireless to Marlene H. Dortch, FCC, CC Docket No. 95-116 (filed May 20, 2003).

The Commission should also ensure a level playing field for porting by confirming that one carrier will not be allowed to implement portability subject to restrictive conditions, such as refusing to port to a customer who has an unpaid balance, while other carriers allow their customers to take their numbers freely upon validation of identity. In the absence of clear guidance regarding the obligation of carriers to port numbers at the request of their customers, Verizon Wireless fears that some carriers will attempt to impose non-porting related conditions as an impediment to porting, *e.g.*, by refusing to port if a consumer owes an early termination fee to the old service provider or otherwise has an arrearage on his or her account. The FCC should act now to prohibit such conduct.

It is Verizon Wireless' view that, of the many concerns raised regarding implementation of LNP, this critical issue is the one that requires the Commission's immediate attention so that the carrier-to-carrier negotiating process can proceed expeditiously. Furthermore, confirmation by the Commission that carriers may not impose restrictions on the porting out process will ensure that customers who choose to change carriers and take their number with them will be able to do so without unreasonable delay.

B. Inter-carrier Contracting

As the *Second CTIA Petition* notes, “[i]n the absence of specific direction from the Commission, it is not clear whether all wireless carriers will enter into streamlined negotiations and reach satisfactory agreements to engage in number portability with one another.”⁶ Contracts are necessary to ensure that both carriers sign up to the principle of providing friction-free porting to their customers. Contracts are also necessary to share basic porting information (port center contacts, third party vendor contacts, timer information, porting flows, etc.), and to facilitate testing between carriers. While it is appropriate to use private contracting to achieve

⁶ *Second CTIA Petition* at 16 n.42.

number portability, the Commission needs to ensure that carriers are in fact negotiating contracts – and that contracts will be finalized in enough time to support LNP implementation in November.

But absent direction from the Commission that carriers may not delay or deny ports other than to validate the customer’s porting request, contracting is unlikely to be concluded. By clarifying soon that carriers will not be allowed to delay ports for reasons other than customer validation, the Commission can remove this contentious issue from the negotiating equation. After it provides such direction, the Commission should request carriers to advise it on the status of the contracting process so that it can take further action as appropriate.

C. Interconnection Agreements

Verizon Wireless concurs with CTIA that wireline carriers should not be allowed to require amendments to their interconnection agreements before they will engage in LNP with a wireless carrier. As CTIA explains, the FCC has asserted authority under section 332 to impose wireless LNP.⁷ Through section 332, Congress directed the Commission to achieve uniformity in regulation of CMRS, recognizing that CMRS carriers “operate without regard to state lines.”⁸ The Commission confirmed this view in its order denying Verizon Wireless’ petition for forbearance from the LNP requirement. In that order, the Commission rejected requests from two states to allow states to independently impose LNP requirements on CMRS carriers, concluding that “[u]niform, national rules for number portability are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory

⁷ *Second CTIA Petition* at 16, n.42. *Cellular Telecommunications & Internet Association and Cellco Partnership, d/b/a/ Verizon Wireless v. FCC* (D.C. Cir.) (No. 02-1264) (decided June 6, 2003).

⁸ H.R. Rep. No. 111, 103d Cong., 1st Sess. 211 at 260 (1993) (H.R. Rep. No. 103-111).

requirements.”⁹ Uniformity would be forsaken if every state was authorized to create different LNP standards through a state arbitration process.

Given the Commission’s broad jurisdiction over CMRS carriers, it has authority to resolve disputes relating to provision of LNP between wireless and wireline carriers and to ensure that wireline carriers comply with their obligation to provide LNP under the Telecom Act.¹⁰ The use of an SLA instead of an interconnection agreement amendment should in no way impede the ability of wireless carriers to seek assistance from the FCC in resolving porting disputes with wireline carriers.

D. Bona Fide Request Requirement and 100 MSA Definition

Verizon Wireless concurs with CTIA that the Commission should rule on the outstanding bona fide request (“BFR”) matter to require all carriers in the top 100 MSAs to port in November regardless of whether they have received a BFR from another carrier. Due to the uncertainty of whether the BFR rule could serve as a basis for a recalcitrant carrier to refuse to port one of its customers’ numbers upon request to Verizon Wireless, Verizon Wireless served BFRs on every wireless carrier and every LEC in its service territory, at significant administrative expense and burden. Under the rules, any carrier that has received a BFR from Verizon Wireless must also offer portability to any other requesting carrier.¹¹ It makes little sense to require only the carriers who received notices from Verizon Wireless to port, especially when the Commission has concluded that LNP is necessary to protect consumers.

⁹ See *Verizon Wireless’s Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, Memorandum Opinion and Order, 17 FCC Rcd 14972, 14986 (rel. July 26, 2002) (“LNP MO&O”).

¹⁰ See *Qwest Corp. v. FCC*, 252 F.3d 462, 463-64 (D.C. Cir. 2001).

¹¹ See 47 CFR § 52.31(a) (requiring LNP to be provided “in switches for which another carrier has made a specific request”); 47 CFR § 52.31(a)(1)(iii) (requiring CMRS carriers to make available lists of switches in which LNP has been deployed).

Moreover, every wireless carrier in the country should have upgraded its network by November 2002 to support nationwide roaming, which required implementation of the MIN/MDN separation. Consequently, no wireless carrier will be spared the significant network upgrading expense associated with supporting MIN/MDN separation by retention of the BFR rule. The Commission should thus rescind the BFR requirement and make clear that all carriers within the top 100 MSAs will be required to port their customers' number upon request in November 2003. The Commission should, as CTIA requested, also determine a final list of what MSAs are within the "top 100 MSAs" for purposes of LNP.

E. Obligation to Support Roaming by Customers with Ported Numbers

As noted above, all CMRS carriers have been obligated to support roaming by customers with ported or pooled numbers since last November.¹² However, the Commission knows, based upon some petitions before it, that at least some wireless carriers have not implemented the necessary network solution to fully support roaming by customers with pooled or ported numbers.¹³ Mid-Missouri Cellular asserts that it need not implement the MIN/MDN solution because it is merely an industry standard, which lacks legal authority.¹⁴ Yet most of the industry relied on this standard and spent significant resources to upgrade their switches to support MIN/MDN separation. If a customer has a number where the MIN does not equal the MDN and roams in a territory of a carrier that does not support MIN/MDN separation, service will be

¹² *LNP MO&O*, 17 FCC Rcd at 14980.

¹³ See e.g., *Petition for Waiver by Pine Belt PCS, and Pine Belt Cellular, Inc.* CC Docket Nos. 99-200 and 95-116, WT Docket No. 01-184 (filed Nov. 22, 2002); *Petition for Limited Waiver and Extension of Time by Kodiak Wireless, LLC*, CC Docket No. 99-200 (filed Nov. 22, 2002); *Cellular Phone Kentucky, Inc. Petition for Limited Waiver and Extension of Time*, CC Docket 99-200 (Nov. 22, 2002); *Litchfield County Cellular, Inc. Petition for Limited Waiver and Extension of Time*, CC Docket 99-200 (Nov. 22, 2002).

¹⁴ See Comments from Missouri RSA No. 7 Limited Partnership, CC Docket Nos. 99-200 and 95-116, WT Docket No. 01-184, at 2 (filed Mar. 26, 2002). This is a prime case in point of the possible problems compliant carriers might face when trying to port with resistant carriers based on industry standards governing porting intervals, validation standards, etc. If a carrier does not want to port a customer's number, it could take a wait and see approach or slow roll the process by using manual instead of automated porting processes.

