

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”) hereby replies to the comments submitted in response to the Cellular Telecommunications & Internet Association (“CTIA”) petition seeking a declaratory ruling on outstanding local number portability (“LNP”) implementation issues.¹ While the comments reflect significant differences of opinion among the parties in a number of areas, there is nearly unanimous agreement on one critical issue – *i.e.*, the Federal Communications Commission (“FCC” or “Commission”) must resolve these issues in sufficient time to allow wireless and wireline carriers to meet their current obligation to port numbers by November 24, 2003.² Thus, asking the FCC to resolve these issues cannot be fairly described as merely a “ploy” to delay

¹ Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association (filed May 13, 2003) (“*CTIA Petition*”).

² SBC Comments at iv (“SBC generally agrees with CTIA that there are important issues to decide to facilitate the wireless carriers’ efforts to comply with the Commission’s number porting requirements. Moreover SBC agrees that these issues should be decided in sufficient time to allow wireless carriers to meet their current obligation to port numbers by November 24, 2003.”); Comments of Verizon Wireless (“VZW”) at 1 (same); Comments of AT&T Wireless (“ATTWS”) at 1 (same); BellSouth Comments at 2 (same); USTA Comments at 3 (same); Comments of NENA at 1 (expressing concern regarding public safety risks in porting delays); Cincinnati Bell Comments at 2; Western Wireless (“WW”) at 1 (same); Virgin Mobile USA (“VMU”) Comments at 2 (same); Verizon (“VZ”) Comments at 2 (same); Comments of Alltel at 1 (same); Sprint Comments at 2 (same); Rural Telecommunications Group (“RTG”) Comments at 4, 8 (same); Nextel Comments at 1 (same); First Cellular Comments at 1-2 (same); OPASTCO Comments at 2 (same); Comments of AT&T at 6 (same); Ohio Commission (“PUCO”) Comments at 2 (same); Rural Cellular Association (“RCA”) Comments at 2 (same); Qwest Comments at 2 (same); Comments of Cingular at 19-31 (same); Independent Alliance Comments at 2 (same).

wireless LNP.³ To the contrary, addressing these issues is necessary to enable a timely and successful implementation of wireless LNP. Moreover, the vehement disagreement in the comments about how the disputed fundamental issues should be resolved further demonstrates the need for prompt FCC action. Therefore, T-Mobile urges the Commission to adopt guidelines that resolve all current disputes and open issues by no later than September 1, 2003.

I. THE COMMISSION MUST RESOLVE THE RATE CENTER DISPARITY ISSUE BEFORE WIRELESS LNP CAN BE IMPLEMENTED SUCCESSFULLY

The comments submitted by some ILECs demonstrate why wireless LNP cannot be implemented successfully unless the Commission addresses the rate center disparity issue before September 1, 2003.⁴ These ILECs are advocating an extreme position that, if adopted, will either undermine one of the core goals of the Commission's wireless LNP policies by severely limiting the amount of numbers that are eligible for intermodal porting or result in a grossly inefficient use of numbering resources, which could lead to the premature exhaust of the North American Numbering Plan ("NANP"). Neither result is acceptable.

As an initial matter, the claim by certain ILECs that wireless carriers are requesting wireline carriers to implement location portability is a total "red herring."⁵ These ILECs argue that when a number is ported from a wireline carrier to a wireless carrier the number is ported "outside" of the wireline rate center with which the number is associated "into a larger geographic

³ Nebraska Public Service Commission Comments at 1 (claiming that CTIA's Petition does not raise any critical issues that need to be addressed before wireless LNP is implemented); Comments of the Illinois Citizens Utility Board at 1 (same); Wireless Consumers Alliance Comments at 4 (same); Rural Iowa Independent Telephone Association Comments at 2 (same).

⁴ See, e.g., Independent Alliance Comments at 1-2; RTG Comments at 3-4; SBC Comments at 2-4; USTA Comments at 7-9.

⁵ See, e.g., Independent Alliance Comments at 1-2; SBC Comments at 2-4; USTA Comments at 7-9.

area (e.g. MSAs),”⁶ presumably because wireless carriers typically serve an entire MSA using numbers from only a few of the wireline rate centers within the MSA.⁷ However, this claim is based on a fundamental misunderstanding, or intentional misinterpretation, of location portability and the manner in which wireless carriers provide service.

The fact that a wireless handset offers users mobility does not mean that a port from a wireline carrier to a wireless carrier results in location portability (*i.e.*, the porting of a number across a rate center boundary). Indeed, nearly every ILEC customer who chooses to port his or her number to a wireless carrier will retain the same billing address for the wireless account as he or she had for the ILEC account, because the overwhelming majority of customers requesting number ports most likely will not simultaneously change the location of their residence or business office. Accordingly, the FCC should reject all arguments based on the claim that wireless LNP results in location portability.

The FCC should also reject the claim by some ILECs that wireline carriers do not have to port any numbers to wireless carriers unless the wireless carrier has, in the wireline rate center with which the number to be ported is associated, a “physical circuit(s) (*i.e.*, DS0, DS1, DS3, OCn) that provides interconnection trunking between the ILEC and the interconnecting service provider,” with one end point of the circuit “residing in either the serving wire center or at the ILEC switch that serves that rate center” and the other end point terminating “at the interconnecting service provider’s network switching.”⁸ If the ILECs’ position were adopted, only a miniscule fraction of

⁶ USTA Comments at 7-8.

⁷ Most of the ILECs’ arguments regarding this issue are framed so broadly that the scope of their alleged concern is indiscernible from the face of their comments.

⁸ USTA Comments at 8.

numbers would be eligible for porting from wireline carriers to wireless carriers, which would undermine the Commission's efforts to lower barriers to competition.⁹

In an attempt to buttress this extreme position with a competitive parity argument, ILECs claim erroneously that CLECs currently are subject to this requirement. The truth is that the FCC on numerous occasions has rejected the ILECs' claim that CLECs must establish multiple points of interconnection ("POIs") in a LATA every time that the ILECs have raised it. Despite the persistence of the ILECs on this issue, the Commission has repeatedly held that the Commission's rules allow CLECs to establish a single POI in a LATA, which means that CLECs do not need to establish a POI in every wireline rate center as USTA misleadingly suggests.¹⁰ Consequently, the predicate of USTA's claim that wireless carriers should be required to establish a POI in every rate center because CLECs must do so is false. The Commission should declare that, contrary to the ILECs' claims, wireless carriers do not need to establish a POI in every rate center to facilitate wireless LNP. Requiring carriers to establish multiple POIs per LATA would force them to build inefficient networks that unnecessarily increase costs that consumer incur to receive service.

The FCC should also reject the claim by SBC and others that, if numbers are ported from wireline carriers to wireless carriers, "consumers calling the former customer might be unexpectedly charged for a toll call" because allegedly "carriers will no longer be able to rate and bill calls with the same accuracy" if "numbers are ported across rate center boundaries."¹¹

⁹ See Comments of T-Mobile, CC Docket No. 95-116, 2-15 (filed Feb. 26, 2003).

¹⁰ *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, 2002 FCC LEXIS 3544, ¶¶ 51-53 (2002) ("Virginia Arbitration Order").

¹¹ SBC Comments at 3 and n.4. See also RTG Comments at 3-4 (arguing that wireline to wireless porting "could lead to massive customer confusion as customers originating calls would have no warning that they were about to incur toll charges for making what had previously been a local call").

Customers will be unexpectedly charged for a toll call only if wireline carriers choose to violate current Commission rules regarding the rating of calls. Specifically, the Commission has ruled that carriers must rate calls by comparing the originating and terminating NPA-NXX codes.¹² Therefore, if wireline carriers comply with current FCC rules and policies, the porting of numbers to wireless carriers would not result in unexpected toll charges.¹³ Because the respective originating and terminating NPA-NXX codes will not change, the call would be routed exactly the same. Likewise, the costs that the originating carrier will incur to route calls to numbers ported from itself to a wireless carrier will be no greater than the costs that the ILEC incurs today to route calls to that wireless carrier. Specifically, land-to-mobile calls will continue to be routed in the same way they are routed today, and thus the implementation of wireless LNP in and of itself will have no impact on ILEC routing costs.

Finally, the FCC should reject the claim by some ILECs that wireless carriers must obtain their own numbering resources in a rate center before ILECs must port numbers associated with that rate center to the wireless carrier.¹⁴ As T-Mobile and others have explained in previous comments, no technical or legal requirement mandates that a carrier have its own numbers in a rate center before other carriers can port numbers to that carrier.¹⁵ If the ILECs' position were adopted, either the nation's supply of available numbering resources would become exhausted because wireless carriers would be forced to request codes in every rate center in which they provide service, or only a miniscule portion of the nation's number resources would be eligible for porting. Neither result is acceptable.

¹² *Virginia Arbitration Order*, ¶ 301.

¹³ *See, e.g.*, SBC Comments at 3 and n.4.

¹⁴ *See, e.g.*, RTG Comments at 3.

¹⁵ *See, e.g.*, Comments of T-Mobile USA, Inc., CC Docket No. 95-116, 6-15 (filed. Feb. 26, 2003).

Quick and decisive action by the Commission on these issues is crucial because these disputes over the proper scope of porting obligations directly impacts the manner in which intermodal porting is performed, and thus the processes, procedures and system requirements that all carriers must implement to support wireless LNP. If these issues are not resolved quickly, disputes between wireline and wireless carriers will lead to customer confusion. Without a decision, the FCC will be deluged by informal and formal complaints from customers and carriers about refusals to port, or disputing carriers simply will not port numbers between themselves. Therefore, the Commission must act now to ensure that its goals for wireless LNP are not undermined.

II. CARRIERS DO NOT NEED TO ENTER INTO INTERCONNECTION AGREEMENTS PURSUANT TO SECTION 251 MERELY TO IMPLEMENT WIRELESS LNP

The majority of commenters¹⁶ – including some ILECs¹⁷ – recognize that carriers can agree to port numbers between each other without entering into an interconnection agreement pursuant to Section 252 of the Act. Nevertheless, certain ILECs continue to insist that carriers “must have an interconnection agreement pursuant to Section 252 of the Act before numbers are ported between them.”¹⁸

¹⁶ ATTWS Comments at 6-8; CBW Comments at 4; CPUC Comments at 6-7; RCA Comments at 5-6; Sprint Comments at 13-19; VMU Comments at 4-5; VZW Comments at 5-6; WCA Comments at 3; WW Comments at 2-3.

¹⁷ Verizon Comments at 10-11; *See also* BellSouth Comments at 9-11 (“BellSouth never objected to the use of service-level porting agreements. Rather, BellSouth advocated allowing the affected carriers to determine the type of agreement that best suits their needs.”); RTG Comments at 6 (explaining that porting agreements do not necessarily have to be interconnection agreements under Section 252).

¹⁸ USTA Comments at 5. *See also* MITG Comments at 7-9 (supporting position of USTA); OPASTCO Comments at 2-3 (same); SBC Comments at 9-13 (same).

A service-level porting agreement is sufficient to facilitate porting between two carriers, as T-Mobile and others have explained in previous comments.¹⁹ The Act does not require wireless carriers to negotiate changes to interconnection agreements with ILECs pursuant to Section 252 solely for the purpose of facilitating number portability. Although Section 251(c)(1) requires ILECs, upon request, to negotiate interconnection agreements pursuant to the procedures set forth in Section 252, nothing in the Act requires ILECs to enter into an interconnection agreement merely to facilitate wireless LNP when an interconnection agreement is not otherwise necessary. An interconnection agreement is necessary only when the “requesting carrier” – in this case a CMRS provider – is requesting “interconnection, services or network elements pursuant to section 251.”²⁰ However, a request by a wireless carrier that an ILEC enter into an agreement merely to coordinate the porting of numbers between the two carriers is not a request for “interconnection, services or network elements.”²¹

Just as there is no legal reason why carriers must enter into interconnection agreements to facilitate number porting, there is no practical reason why carriers should do so. A targeted service-level portability agreement can address the business arrangements necessary to support the Inter-carrier Communication Process (“ICP”) to port a customer’s telephone number. To claim that changes to interconnection agreements are needed to “ensure that proper routing, call

¹⁹ Comments of T-Mobile USA, Inc., CC Docket No. 95-116, 15-16 (filed Feb. 26, 2003); ATTWS Comments at 6-8; CBW Comments at 4; CPUC Comments at 6-7; RCA Comments at 5-6; Sprint Comments at 13-19; VMU Comments at 4-5; VZW Comments at 5-6; WCA Comments at 3; WW Comments at 2-3. Verizon Comments at 10-11; BellSouth Comments at 9-11; RTG Comments at 6.

²⁰ 47 U.S.C. § 252(a)(1).

²¹ For example, a wireless carrier that interconnects with a CLEC rather than directly with the ILEC might nonetheless need to enter into a service level porting agreement directly with the ILEC to facilitate porting between wireless carrier and the ILEC. Under this scenario, the wireless carrier does not need to interconnect with the ILEC.

completion and service quality standards are sustained”²² is disingenuous. Today, calls are properly routed and terminated to pooled telephone numbers without changes to carriers’ interconnection agreements because carriers already have implemented the Local Routing Number (“LRN”) network infrastructure. The same will be true for wireless LNP, and thus modifications to interconnection agreements are not required for the successful implementation of wireless LNP.

The Commission must act now because disputes over the need for interconnection agreements negotiated pursuant to Section 252 are preventing carriers from initiating negotiations to reach any type of agreement on the business arrangements needed to process a customer’s port request. The successful implementation of intermodal porting cannot take place without these service-level agreements. In fact, certain LECs refuse even to discuss service-level agreements or engage in testing without interconnection agreement amendments. Therefore, T-Mobile respectfully urges the Commission to clarify that service level agreements are sufficient to facilitate portability, and all carriers must negotiate service level portability agreements in good faith.

III. THE COMMISSION SHOULD ESTABLISH A UNIFORM INTERMODAL PORTING INTERVAL TO FACILITATE WIRELESS LNP

T-Mobile and several other parties have urged the Commission to establish uniform porting intervals and require all carriers to facilitate automated porting systems in order to increase the competitive benefits of LNP.²³ Several ILECs have objected strenuously to any suggestion that the Commission should shorten the porting interval for wireline-to-wireline ports or wireline-to-wireless ports, arguing that the Commission has no authority to do so in this proceeding and that

²² USTA Comments at 5.

²³ AT&T Comments at 5-6; ATTWS Comments at 3-6); CBW Comments at 2-4; Nextel Comments at 5-7; RCA Comments at 5; Sprint Comments at 5-13; T-Mobile Comments at 6-9; VMU Comments at 4. *See also* WCA Comments at 2 (“There should be a de minimus lag between the initiation and completion of the porting process.”).

shortening this porting interval would impose unnecessary costs.²⁴ Although reducing the porting interval for wireline-to-wireline ports would also increase the competitive benefits of LNP, T-Mobile has urged the Commission to focus now on establishing a shorter uniform porting interval for simple *intermodal* ports and requiring that all carriers facilitate automation.²⁵ To the extent that the Commission has sufficient legal authority to require wireless LNP, it also has the legal authority to establish uniform intermodal porting intervals in this proceeding.

T-Mobile has urged the Commission to establish a maximum intermodal porting interval of two business days for simple ports in order to increase the competitive benefits of number portability and decrease the risk that public safety answering points (“PSAPs”) will be unable to call back the phone used to place an emergency call.²⁶ Some ILECs suggest erroneously that the length of the porting interval has no significant effect on public safety.²⁷ As the National Emergency Number Association (“NENA”) explained in its comments, however, minimizing porting intervals reduces the risk that callback – which “clearly is a vital feature of wireless 9-1-1” – will be unavailable during an emergency.²⁸ T-Mobile agrees with NENA and other parties that callback should be preserved without interruption wherever possible by reducing the length of the intermodal porting interval.²⁹ As the comments in this proceeding demonstrate, however, a standard intermodal porting interval that reduces public safety risks will not be implemented unless

²⁴ BellSouth Comments at 3-9; Qwest Comments at 2-9; RIITG Comments at 3-4; RTG Comments at 12; SBC Comments at 4-9; USTA Comments at 3-4; Verizon Comments at 2-10.

²⁵ See T-Mobile Comments at 6-9.

²⁶ See *id.*; NENA Comments at 1-2 (clarifying the risk caused by unnecessarily long mixed-service periods).

²⁷ See, e.g., Comments of Qwest at n.6; Verizon Comments at 8-10. See also Comments of BellSouth (“Contrary to CTIA’s assertion, a shorter processing time would exacerbate 911 problems, not minimize them).

²⁸ See NENA Comments at 1-2, 5

²⁹ See, e.g., *id.*; Nextel Comments at 6.

the Commission adopts a mandatory porting interval. Therefore, T-Mobile urges the Commission to impose a uniform intermodal porting interval of two business days in order to reduce the risk that callback will be unavailable during an emergency and to facilitate competition.

IV. CONCLUSION

For the foregoing reasons, T-Mobile urges the Commission to grant the *CTIA Petition* consistent with the recommendations outlined above.

Respectfully submitted,

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