

THE COMMISSION MUST RESOLVE THE CTIA PETITIONS IMMEDIATELY

I. THERE ARE A NUMBER OF ISSUES THAT SHOULD BE RESOLVED IMMEDIATELY

- Although there is considerable disagreement on the issues, nearly all the parties agree on two important points:
 - There are a significant number of critical issues with regard to wireless LNP that require Commission resolution.
 - In order to ensure regulatory parity and clarity and successful roll-out of wireless LNP, the Commission must address these issues immediately.
- Resolution of these issues is absolutely essential not only for inter-modal porting, but also for porting *between wireless carriers* to be implemented smoothly and successfully. Given that the industry has failed to resolve these issues and that they have been raised before the Commission several times over the past five years, it is time for the Commission to step in to provide guidance.

II. THESE ISSUES MUST BE RESOLVED IN THE FOLLOWING MANNER *PRIOR TO WIRELESS LNP IMPLEMENTATION*

- **Rate Center:** The wireline carriers insist that it violates “rate center” principles and is anti-competitive to allow a wireline number to be ported outside a rate center. The Commission should reject these arguments to restrict inter-modal porting.
 - It does not violate “rate center” principles to require wireline carriers to port numbers to a wireless carrier where the number is in a rate center within the wireless carrier’s service area because the number will *continue to be associated with the rate center* (thus such porting does not constitute location portability). As long as the number remains associated with the rate center, there is no “technical infeasibility.”
 - Inter-modal porting does not exacerbate or create a “competitive disparity.” Any disparity between how CMRS and wireline carriers assign numbers exists today, which in turn is based on the mobile nature of wireless service. There is no requirement today that CMRS customers need to be located within the rate center of the number and the Commission should not adopt such a rule.
- **Rating/Routing (Local Presence):** Related to the “rate center disparity” issue is the wireline carriers’ (and even some rural *wireless* carriers’) insistence that wireless carriers cannot have disparate rating/routing points. In a LNP context, these carriers assert that this means that CMRS carriers cannot port numbers unless they have one or more of the

following: (i) numbers in the LEC's rate center; (ii) direct interconnection with the local exchange carrier (LEC) in a rate center; and (iii) points of presence in each of the LEC's rate centers.¹ The Commission should reject these arguments as meritless and not grounded in any technical basis, and should affirm the obligation of carriers to port out numbers to wireless carriers whose service area overlaps the rate center.

- There is no FCC requirement that wireless carriers must obtain numbers prior to porting numbers or that rating and routing points be the same. Requiring carriers to obtain numbers in a rate center prior to porting would waste numbers and contravene the Commission's number conservation goals.
- Wireless carriers today choose how to interconnect with a LEC and are permitted to establish just one point of presence or point of interconnection within a Local Access and Transport Area ("LATA"). The Commission should reaffirm these basic points that it has established in prior orders.
- **Wireless LNP Methods and Procedures:** The Commission has adopted wireline processes and procedures for LNP but not for wireless carriers. This failure has left a large number of unanswered questions and issues (*see, e.g.* porting interval). The Commission needs to adopt wireless LNP methods and procedures that are binding and enforceable so that carriers will know how to proceed and what to expect from others.
- **Porting Intervals:** The Commission needs to establish a definite and uniform porting interval for wireline-wireless and wireless-wireless *simple ports*. A definite porting interval will minimize inter-carrier communication and LNP disputes, difficulties, and delays, and customer confusion and frustration.
- **E911 Mixed Service:** NENA proposes that during the port process, wireless carriers activate service near the time of NPAC activation and that wireline carriers disconnect the number earlier in order to mitigate the 911 callback issues. The Commission should not adopt NENA's proposal regarding the time of wireless service activation. Wireless systems are designed to activate a customer's service at point-of-sale, and wireless customers often desire this immediate activation of service. In addition, the 911 callback issue can (and currently is) being addressed by the NENA WLNP Subcommittee through implementation of customer education by service provider care representatives and PSAP personnel alike.
- **Type 1 numbers:** Some carriers assert that there are unique issues raised by Type 1 number porting that requires a separate proceeding before these numbers can be ported. The Commission should clarify that carriers may not restrict or delay porting of Type 1 numbers as there is no technical basis for such restrictions and it would be anti-competitive for carriers to do so.

¹ Further, OPASTCO asserts that a point of presence and interconnection agreement must be obtained *prior even to submitting a BFR*.

- **Grandfathered numbers:** Similarly, there is no technical basis for carriers to restrict or delay porting of grandfathered numbers and the Commission should prohibit such restrictions.
- **Denials of Ports due to Unpaid Accounts:** Some parties have raised the issue of whether a carrier can deny port-outs due to a customer's failure to pay their bills or early termination fees. It is unclear that the Commission even has the jurisdiction to interfere with carriers' ability to adopt this policy or with existing carrier contracts. Further, it would be inequitable to prevent carriers from recovering the amounts lawfully owed to them. Consistent with the Commission's market-based policy for the highly competitive wireless industry, the Commission should clarify that nothing restricts a carrier from adopting such a policy.

III. THE COMMISSION SHOULD RESOLVE THESE ISSUES THROUGH A RULEMAKING

- Ideally, the Commission should address *all* of the above issues and establish wireless LNP methods and procedures through a proceeding that complies with notice and comment procedures of the Administrative Procedure Act. Given that some of the above issues were raised for the first time by parties and by the CTIA petitions, it would be best for the Commission to provide notice of its tentative conclusions to ensure that parties have been given adequate notice and opportunity to comment on all these issues. The Commission should, at a minimum, provide some guidance on these issues.

IV. AT A MINIMUM THE COMMISSION SHOULD AFFIRM THAT ALL TYPES OF PORTING ARE PERMITTED TESTING

- To the extent that the Commission does not provide guidance on all these issues, the Commission should at a minimum not permit carriers to pick and choose certain categories of numbers that should not be ported (e.g. wireline numbers, Type 1 numbers, grandfathered numbers) or to impose pre-conditions on porting numbers in certain geographic areas (e.g., requiring the customer to have a billing address remaining within the rate center; or other interconnection-related prerequisites that are contrary to numbering and interconnection rules).