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June 16, 2003

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street S.W.
Washington D.C. 20554

RE: FCC Docket No. 95-116

Dear Ms. Dortch,

I have enclosed an original and four copies of Comments of the Citizens Utility Board in the above FCC Docket number. I attempted to file these comments electronically on Friday, June 13, 2003, the date they were due, and thought I was successful (the screen appeared to indicate that they were accepted). Apparently, however, something went wrong and the Comments did not get formally accepted (they are not on the website).

I have tried to remedy the situation by filing the comments electronically today, June 16, 2003. However, to ensure that the Comments are deemed timely filed, I was advised by the Office of the Secretary to send these copies and make a formal request that the Comments will indeed be accepted as timely filed (on June 13, 2003).

I appreciate anything you can do to assist me in this matter. If the enclosed is insufficient information, please contact me at the information below and I will do whatever is necessary to resolve the situation.

Thank you very much for your time and consideration.

Sincerely,

Julie Lucas

Julie Lucas
Legal Counsel
Citizens Utility Board

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C.

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

COMMENTS OF THE ILLINOIS CITIZENS UTILITY BOARD

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Attorney for the Illinois Citizens
Utility Board

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C.

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

COMMENTS OF THE ILLINOIS CITIZENS UTILITY BOARD

The Illinois Citizens Utility Board submits these Comments to the Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association ("CTIA") filed on May 13, 2003 ("Petition"). The Citizens Utility Board ("CUB") again cautions the Federal Communications Commission ("FCC" or "Commission") that CTIA's Petition should not be allowed to forestall the deadline for service provider portability within the wireless industry.

INTRODUCTION

In its latest Petition for Declaratory Ruling[1], CTIA is making a final feeble attempt to convince the Federal Communications Commission ("Commission") that certain "ambiguities" in the provisioning of wireless local number portability ("LNP") must be resolved before the wireless industry can successfully implement LNP. CTIA is grasping at straws. The real issue here is CTIA's unwillingness to provide the last step necessary for wireless consumers to realize true competition. CTIA even goes so far as to claim that "the lack of uniformity in LNP standards will cause tremendous customer confusion that will negate any hoped-for benefits from

[1] Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, *In the Matter of Telephone Number Portability*, CC Docket No. 95-116 (filed May 13, 2003)("CTIA Petition").

the rule."[2] The CTIA not only exaggerates, but distorts the effect that the issues presented in its Petition will have on customers.

CUB will attempt in these comments to briefly address each of the main issues addressed in CTIA's Petition. Additionally, CUB incorporates by reference its initial comments to CTIA's January 23, 2003 Petition for Declaratory Ruling, filed on February 26, 2003, which address CTIA's prior flawed claim that the unresolved intermodal porting issue must also be resolved before it can implement wireless LNP.[3]

I. The Issues Raised in CTIA's Latest Petition Need Not Be Resolved to Implement Wireless to Wireless Portability on November 24, 2003.

CTIA's Petitions present weak attempts to further delay the implementation of what is in the public interest and will improve competition by providing a more accessible competitive environment for consumers – wireless portability. In our previous comments, CUB argued that, in crafting the rules to open the telecommunications market place, Congress wanted to ensure that a competitive market place would be allowed to develop. The Commission ordered both wireline and wireless providers to implement the relevant technology to be able to provide number portability, because the Commission determined that it would support a competitive market place and therefore the public interest.[4] In fact, the Commission concluded in its last *Memorandum Opinion and Order* that "delay beyond the one year period we adopt today could impair the development of competition unnecessarily and harm consumers."[5] The Commission should not allow the implementation of LNP, which will benefit the majority of consumers, to be

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[2] CTIA Petition at 5.
[3] See Comments of the Illinois Citizens Utility Board, Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, *In the Matter of Telephone Number Portability*, CC Docket No. 95-116 (filed February 26, 2003).
[3] CTIA Petition at 5.

[4] 47 C.F.R. § 251(b); 47 C.F.R. §§ 1,2,4(i).
[5] *Memorandum Opinion and Order,* ¶28

postponed based on any of the issues raised by CTIA's Petitions, which will affect a small minority of customers.

CTIA is primarily concerned, in its latest Petition, that the FCC make a final determination about porting intervals, and their effect on E911, and the method of entering into interconnection agreements with incumbent LECs to govern the terms under which carriers will test with and port numbers to one another (wireline-wireless porting or "intermodal porting").[6] Though CUB will not detail every issue nor the extent to which these issues have been raised by CTIA and other wireless carriers throughout the past several years, the important thing to remember here is that the issues CTIA expresses concern about are policy in nature – not technical impediments. The Commission should not allow these policy issues to delay the implementation deadline for wireless LNP.

For example, CTIA would have this Commission believe that the intermodal porting interval that may be put into practice by the wireline industry is a significant barrier to competition.[7] The CTIA even goes so far as to state that the if the porting interval issue is not addressed by the Commission, the "benefits advanced by the Commission for imposing the number portability mandate on wireless carriers will not be realized."[8] This statement is disingenuous at best, considering the CTIA has been petitioning for a delay in wireless portability since the mandate was issued. Further, the problem cited by CTIA is insignificant. In our February 26, 2003 Comments in the instant docket, CUB discussed at length the reasons why the impediments to intermodal porting cited by CTIA will not affect the vast majority of

[6] CTIA May 13, 2003 Petition at 16.
[7] *See Id.* at 15.
[8] *Id.* at 14.

situations when customers desire number porting, and should not be used to justify any further delay in the implementation of wireless portability.[9]

Even if the many issues impeding the development of intermodal portability were to be solved, and intermodal porting were to begin on November 24, 2003, the up to four day interval to port a number from a wireline carrier to a wireless carrier would not be any more of a disincentive for a customer to switch service, that it currently is with wireline to wireline portability. Furthermore, CTIA's argument that this porting interval is a "threat to public safety" due to E911 concerns rings hollow considering these are the same intervals employed in the wireline industry.[10] Additionally, CUB would note that the wireless industry is not being required to meet any higher standards than the wireline industry in this regard.

CTIA cites to a report released by JP Morgan in an effort to demonstrate that a porting interval lasting "several days or even weeks" diminished the increase in churn and therefore was a concern for customers.[11] CTIA elevates the significance of the brief excerpt cited in its Petition, which is totally lacking in any quantitative analysis. First, this report appears to refer only to porting between wireless providers – not the intermodal porting that CTIA refers to in the very same paragraph.[12] Second, the difference between several days and weeks is enormous. Clearly, a customer would evaluate a situation where he would be out of service for four *days* versus four *weeks* very differently. Third, with regard to the "churn" referred to in the text of the report, it does not follow that the unquantified modest increase in churn mentioned "indicates that the porting period was a concern for customers."[13] A lengthy time period without service may be a disincentive, but there are many other factors, such as price and service quality, that

[9] *See* CUB February 26, 2003 Comments.
[10] CTIA May 13, 2003 Petition at 11.
[11] *Id.* at 14
[12] *Id.*
[13] *Id.*

would influence a customer's choice of service providers. Finally, CTIA itself acknowledges that there is a viable solution to its complaint about the industry-adopted intermodal time intervals for porting – the "mixed service" option – which allows a customer to have service with two carriers with the same phone number for a period of time.[14] This alternative was developed and discussed by industry participants and presented in a NANC report, and this does alleviate the porting interval complained of by CTIA.[15]

CTIA's second concern is regarding the future requirement to negotiate interconnection agreements with LECs to accommodate intermodal porting. CTIA complains that it does not want to participate in interconnection negotiations or modifications with LECs.[16] However, the Commission has not yet addressed certain issues that may operate as an impediment to intermodal porting at this time, nor need it address these issues in order for wireless to wireless porting to begin on November 24, 2003. Therefore, the Commission may also wait to address the method, terms and conditions of interconnection agreements controlling the porting relationship between CMRS carriers and LECs. This issue need not be addressed immediately in order for wireless porting to begin.

What is perhaps most disturbing about CTIA's latest Petition is the following statement:

> "Carriers will need at least ninety days, and probably more, to program their OSS and back office support programs; order, test and place in service new intercarrier circuits; obtain new numbering resources from the NANPA and Pooling Administrator; introduce new marketing plans; and properly train their sales and customer care employees about consumers' rights and carriers' obligations resulting from the Commission's number portability mandate."[17]

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[14] *Id.* at 9.
[15] *Id.*
[16] *Id.* at 16-23.
[17] *Id.* at 6.

This statement underlines a fundamentally flawed premise that CTIA would have the Commission and the public believe – that is, that wireless carriers can not begin the preparations to be able to implement wireless portability until the Commission decides these issues. This is patently false. Wireless carriers have been required to pool since November of last year, and pooling and portability are based on the same technology. Therefore wireless carriers should all have the systems in place to implement wireless to wireless portability on November 24, 2003. Furthermore, the wireless industry has been under order for approximately five years to implement the LNP mandate, and the policy issues identified by CTIA do not preempt implementation or preparation for implementation by wireless carriers.

CONCLUSION

For the foregoing reasons, CUB respectfully requests that the Commission reject CTIA's request for declaratory ruling and maintain the current schedule for wireless LNP deployment. Wireless to wireless portability would greatly enhance competition and serve the public interest. The issues identified by CTIA, on the other hand, do not present any significant barrier to competition. The schedule for wireless portability established by the Commission should, therefore, remain in place and CTIA and all other CMRS carriers should be required to implement LNP by November 24, 2003.

Respectfully Submitted,

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June 13, 2003