



**Qwest**  
607 14<sup>th</sup> Street, NW, Suite 950  
Washington, DC 20005  
Phone 202.429.3121  
Fax 202.293.0561

**Cronan O'Connell**  
Vice President-Federal Regulatory

*EX PARTE*

September 17, 2003

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W., TW-A325  
Washington, DC 20554

Re: *In the Matter of Telephone Number Portability*, CC Docket No. 95-116

Dear Ms. Dortch:

On September 15, 2003, Cronan O'Connell, Mary Retka and Craig Wiseman representing Qwest Communications International Inc., held a conference call with Cheryl Callahan of the Wireline Competition Bureau. The purpose of the call was to discuss intermodal telephone number portability technical issues as they relate to local number portability ("LNP") changes that would be required as a result of a rule change as currently advocated by the wireless providers.

If the Commission proceeds with wireless LNP on November 24, 2003, intermodal portability between wireline and wireless providers must comport with the LNP rules in place today. Otherwise, the Commission must initiate a *Notice of Proposed Rulemaking* to: 1) notify the public of any possible rule change the Commission is considering, which it has not done to date; 2) identify both the consumer and public interest benefits; 3) establish a record that identifies the costs of implementation by consumers, ILECs, CLECs and cable telephony providers; and 4) allow the state commissions to review the cost implications of expanding LNP beyond the wireline rate center from both a consumer and LEC standpoint.<sup>1</sup> Alternatively, the Commission should reaffirm that the intermodal LNP rules as implemented today are defined as service provider portability for the purposes of intermodal portability between wireline and wireless providers. The Commission should clarify that service provider portability requires that both the customer's NPA-NXX and the customer's physical address are in the same rate center and that

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<sup>1</sup> See Reply Comments of the Association for Local Telecommunications Services ("ALTS"), CC Docket No. 95-116, filed June 24, 2003 in response to the Cellular Telecommunications & Internet Association's ("CTIA") May 13, 2003, Petition for Declaratory Ruling ("PFDR"). ALTS urged the Commission not to make a hasty decision without understanding the implications to the LEC billing systems. Rather, the Commission should address these issues through a rulemaking proceeding. *Id.* at 1, 3-4.

the instant a customer physically moves his address and takes his telephone number (“TN”) to another rate center this becomes a location port disallowed by the current LNP rules. A failure to conclude otherwise creates significant competitive inequities between wireline and wireless service providers.

In its January 23, 2003, Petition for Declaratory Ruling, CTIA stated that:

“...wireless carriers typically serve the same service area as a LEC by establishing a presence in one center where a LEC on average will have eight rate centers. Because the overwhelming majority of wireline customers will be located in a rate center where the wireless carrier of their choice has neither located a MSC nor previously drawn resources (*i.e.*, in seven out of every eight rate centers, on average), a narrow view of wireline LEC number portability obligations would artificially deprive the great majority of wireline customers the opportunity to port their number to a wireless carrier.”<sup>2</sup>

What CTIA fails to mention is that wireless carriers choose to establish a presence in only one out of eight rate centers. Because wireless carriers are not bound by rate centers other than for number assignment purposes, a wireless carrier will commonly request numbers in one rate center and assign those numbers to its customers throughout its service territory irrespective of whether a particular wireless customer physically resides in the rate center from which the customer’s TN is assigned.<sup>3</sup>

In contrast, wireline carriers, especially ILECs, are bound by a number of rate center constraints. As noted by Sprint:

“ILECs have established rate centers in order to determine whether their customer’s calls should be rated as local or toll. Generally, an ILEC rates a landline call originating and terminating in the same rate center as local, while a call between rate centers is treated as a toll call. Competitive carriers need access to TNs in ILEC rate centers so they can order local calling areas comparable to that provided by ILECs to their own customers.”<sup>4</sup>

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<sup>2</sup> See Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association (“CTIA Rate Center Petition”), filed January 23, 2003.

<sup>3</sup> For example, it is common for wireless carriers to request TNs that are rated to Rate Center A and to assign those numbers to customers that not only physically reside in Rate Center A, but also to customers that physically reside in Rate Center B, Rate Center C, Rate Center D, etc. In short, it is common that a wireless customer that physically resides in Rate Center D is assigned and served by a TN that the wireless carrier has assigned to Rate Center A.

<sup>4</sup> See Sprint Petition for Declaratory Ruling, CC Docket No. 01-92, filed May 9, 2002. While Qwest agrees with Sprint’s basic point that rate centers were established and continue to be used to properly determine local and toll calls, Qwest notes that some calls between rate centers may be rated as local. For example, Qwest averages two rate centers per local calling area.

In its *Second NRO Order*, the Commission states:

“The rate center system was established in the 1940s primarily to facilitate the routing and billing of telephone calls. Carriers typically need numbering resources in multiple rate centers to establish a footprint in a particular geographic area.”<sup>5</sup>

And:

“We are mindful that rate center consolidation may be a difficult option for many states and carriers, especially ILECs, because of the historic connection between rate centers and the billing, as well as routing, of calls. Rate center consolidation determines which calls are local versus toll, and thus consolidation may deprive some carriers of toll revenue.”<sup>6</sup>

Whereas wireless carriers frequently request TNs from one rate center and assign those TNs to customers that physically reside in another rate center, wireline carriers by contrast generally request TNs in every rate center they serve and use those TNs to provide service to customers that physically reside in the rate center.

While CTIA argues that a “narrow view” of wireline LEC number portability obligations would allow ports on average in only one of eight rate centers, CTIA fails to point out that the reverse is also true -- namely that by requesting numbers in only one rate center and then using those numbers to serve customers physically located across multiple rate centers within the wireless carrier’s service area, **wireless carriers preclude LECs from competing for and porting-in customers that have been assigned a TN from a rate center different from the rate center in which the customer physically resides.** In short, wireline carriers are only able to compete for and port-in wireless customers that are served by a TN which has been assigned to the rate center in which the customer physically resides. According to CTIA, this would be possible in only one out of every eight wireline rate centers. **Therefore, granting CTIA’s petition would place wireline carriers in precisely the same competitively unequal position that wireless carriers are attempting to avoid.** The difference is that wireless carriers **choose** to deviate from the common practice of assigning TNs to customers that have been assigned to the rate center in which the customer physically resides. **Many of the service provider portability problems identified by wireless carriers could be avoided if wireless carriers were required to assign TNs to their customers that are assigned to the rate center in which the customer physically resides.**

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<sup>5</sup> See the Commission’s *Second NRO Order*, 16 FCC Rcd 306, 366 ¶ 144 (2000).

<sup>6</sup> *Id.* at 368 ¶ 148.

Furthermore, any decision by the Commission to expand the current LNP rule to allow for location porting across rate center boundaries would be contrary to the Commission's current rules and prior decisions on this matter, state commission review, NANC recommendation and industry practice.

### **Technical Burdens**

An intermodal port from a wireline provider to a wireless provider will result in a telephone number no longer being associated with a specific location, *i.e.*, a physical address. If that telephone number is subsequently ported from a wireless provider back to a wireline provider, the number must go back to the rate center from which it was originally assigned. Otherwise, such a port would constitute an inappropriate location port that may, depending on the facts of the port, create: 1) customer confusion (*i.e.*, it is no longer possible for a customer to properly use the NPA-NXX of a telephone number to determine whether the call will be local or toll. For example, if location ports are allowed and the TN crosses a rate center and local calling area boundary, calls to the ported number could appear to the calling party as toll even though the called party may live next door to the calling party); 2) billing problems for carriers (*i.e.*, calls to the ported telephone number may appear to the billing systems as local and not billed even though toll charges should apply to a call that is routed to a rate center outside the local calling area); and 3) competitive inequities for LECs (*i.e.*, technical and regulatory obstacles prohibit LECs from porting outside the rate center whereas wireless providers do not have such limitations).

Porting within a rate center requires both carriers to: 1) comply with industry approved porting requirements and notification intervals; and 2) update the 911 database. Qwest, along with other wireline local service providers, currently allows a customer to port their telephone number from Qwest to another local service provider as long as the TN stays within the rate center. Conversely, Qwest will port a TN from another local service provider to Qwest as long as the TN stays within the rate center. These requirements comport with the Commission's LNP rules as codified in 47 C.F.R. § 52.26. Today, Qwest manages 793 rate centers within its 14-state region which have LNP-capability. When Qwest receives a Local Service Request for a customer that is moving to Qwest from another LEC, Qwest performs the following checks in its systems:

- 1) Using the customer's physical address, Qwest verifies that there is a local facility available to the customer's location.
- 2) Qwest checks the customer's current TN (that they would like to keep as they port their TN and subscribe to service from Qwest) and verify that the NXX, or prefix, of their number is within the same rate center serving area as the customer's physical address.
- 3) If the TN and the physical address are not in the same rate center, the customer is notified that they must change their TN or we must reject the order.

The TN and the customer's physical address must be within the same rate center. In the LEC's network, the customer's local loop is connected to a switch and TN, all of which is associated

with a specific rate center. This information is required by the local service provider to properly route and bill calls. Automatic Message Accounting (“AMA”) records created by the switch are used for billing long distance calls. The billing systems analyze the NPA and NXX of the calling and called parties to determine whether the call is local or toll. If LNP is expanded beyond the rate center, this analysis would have to be expanded to account for all 10 digits of the called number (*i.e.*, NPA-NXX-XXXX). Some estimates indicate that expanding the AMA systems to analyze all 10 digits of both the calling and called numbers would require an overhaul of the existing billing systems. This is one of many reasons why the current LNP rules and processes restrict LNP to service provider portability and limit location ports to the rate center.

If location portability was expanded beyond the rate center boundary as requested by the wireless companies, the currently well-defined rate center and local calling area boundaries managed by the various state commissions will erode. Changing rate center and local calling area boundaries would: 1) require upfront planning which considers switching, trunking, and network routing changes; 2) result in enormous customer confusion as a result of TNs no longer being associated with a fixed geographic location and the resulting downstream local versus toll billing impacts; 3) impose significant costs on the general public; and 4) lead to the loss of toll revenues, a major funding source for state universal service programs. In addition, any requirement to port numbers across rate center boundaries must also consider the impact to state-ordered area code splits. Oftentimes an area code split will bisect a major metropolitan area. All of these impacts must be fully considered.

To illustrate the magnitude of such a restructure, Qwest and the Commission discussed many, but by no means all, of the technical modifications that would be required by the industry if the current LNP rules and guidelines were changed:

1. Even before the technical issues could be resolved, Qwest would be required to gain approval of this massive restructure from its state commissions. Today Qwest has 793 rate centers that could in essence be consolidated into potentially 27 LATAs or local calling areas and this would have massive affects on the consumer. Therefore, as with any standard network engineering plan, the Company would first have to determine exactly the new local calling area, yet to be defined by the Commission; determine the effect on each of the 793 rate centers and the consumer communities of interest within and between each rate center, gain approval for the plan and appropriate cost recovery from the state commissions and then begin the engineering activities listed below.
2. Each local service provider within the LATA or the designated local calling area would prepare all of their switches to accommodate ported-in numbers from all of the new “local” NPA-NXXs. To accomplish this, Qwest would be required to work with switch vendors and in most cases, pay for additional functionality to be added to or made workable within switches to add capacity for the appropriate number of NPA-NXXs. If done on a national scale, there would be major scheduling and deployment issues for all carriers and vendors.

3. With the expansion of the local calling area to the LATA level, **local** call volumes will increase where the calls were once **toll**, thereby stimulating call volumes. This call stimulation would require increasing the size and amount of physical trunk routes between switches and/or access tandems. Also, such a change would require local service providers to reconfigure their access and local tandems to accommodate the change in local and toll traffic.
4. New routing solutions would need to be translated into each switch. Each switch would need these new translations to route calls over the correct trunk groups within the expanded local calling area. This work must be completed in every switch within the LATA/NPA for all of the NPA-NXXs in service within the LATA/NPA.

Today, because the switch only examines the NPA-NXX (the first six digits of the TN) to route the call, it needs to know information about all of the NXXs in all of the switches in order to do call set up and completion for the entire LATA. Qwest's switches are programmed to know all of the NPA-NXXs for the local calling area. This number will increase significantly.

5. Operational Support Systems, including billing systems, will require major rework/modifications. Today, each NPA-NXX has one and only one rate center for toll rating and billing which is based on the originating and terminating NPA-NXXs associated with a particular call. The billing systems perform this activity. Any change to the current rate center model would require significant changes to the local service providers' billing systems. The local service providers' provisioning systems would also need to be modified.

The Commission, along with the industry and state regulatory bodies, collectively, must resolve these technical issues, including addressing the revenue implications as traffic is redefined from toll to local and providing the local service providers a means of recovering their costs for implementing such changes, prior to revising any of the current LNP rules. Failing to fully address these issues will cause consumer frustration and significant systems and network implications.

Many industry players seem to think that the ILECs are grossly exaggerating the complex nature of this restructure, were it ever to occur. However, the ILECs have already grappled with rate center consolidation. For example, Qwest, at the direction of the Colorado Public Utilities Commission, consolidated 45 Denver-based rate centers to 16. Even though the requirements were known in advance, the Denver rate center consolidation required 18 months of upfront planning and engineering and took two years to complete. While the local switches that serve the Denver local calling area had sufficient capacity to accommodate the "fringe" geographic areas that were added to the rate centers without generic upgrades, this may not always be the case. Nonetheless, the Denver consolidation required that additional trunk side ports be added to the switching equipment. This effort required trunk side port additions, trunking changes, local network planning and engineering work, switch translations, and resolving call blockage

problems. This work was completed at significant cost, several millions of dollars, to the company.<sup>7</sup>

Forcing wireline providers to adhere to a new and yet to be defined scheme for intermodal LNP with wireless providers is not in the public interest and does not meet the long-term interests of the consumer.

### **Competitive Inequities**

Last but not least, the LNP rules currently in place require service provider portability -- the ability of a customer to retain a phone number at the same location when switching from one service provider to another. As stated above, the Commission should **reaffirm that the intermodal LNP rules as implemented today** are defined as service provider portability for the purposes of intermodal portability between wireline and wireless providers. Competitive fairness requires that the Commission clarify that service provider portability requires that **both** the customer's NPA-NXX and the customer's physical address are in the **same** rate center and that the instant a customer physically moves his address and takes his TN to another rate center this becomes a location port disallowed by the current LNP rules. A failure to conclude otherwise creates significant competitive inequities between wireline and wireless service providers.

The telecommunications industry and the Commission's own LNP rules and orders have long recognized that requiring LECs to implement location portability beyond the rate center boundary would impose unacceptable obstacles, including technical burdens, regulatory constraints, customer confusion and competitive inequities.<sup>8</sup> It continues to be the case that it is not good policy or in the public interest to expand the current LNP rules to require location portability. These obstacles must be solved before location portability beyond the rate center boundary is codified in the Commission's rules.

Additionally, the Commission's own LNP rules restrict location portability to a rate center boundary. 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 in its Report of April 25, 1997 and related appendices. Section 7.3 of Appendix D states that:

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<sup>7</sup> See Colorado Docket 97M-548C, direct testimony of Paul R. McDaniel.

<sup>8</sup> See *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, RM-8535, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8448 ¶¶ 184-85 (1996).

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If location portability is ordered by a state commission in the context of Phase I implementation of LRN, location portability is technically limited to rate center/rate district boundaries of the incumbent LEC due to rating/routing concerns.

However, the industry welcomes the opportunity to further investigate the implications of broadening LNP beyond the current rules through a notice of proposed rulemaking at some time in the future. Initiation of a rulemaking to address this complex issue is the appropriate course for the Commission to pursue, not a unilateral and arbitrary change that will create competitive disparity among competing carriers.

In accordance with FCC Rule 47 C.F.R. § 1.49(f), this *ex parte* letter is being filed electronically for inclusion in the public record of the above-referenced docket pursuant to FCC Rule 47 C.F.R. § 1.1206(b)(2).

Sincerely,  
/s/ Cronan O'Connell

cc: John Muleta  
William Maher  
Matt Brill  
Jennifer Manner  
Sam Feder  
Dan Gonzalez  
Scott Bergmann  
Barry Ohlson  
Jessica Rosenworcel  
Paul Margie  
Bryan Tramont  
Sheryl Wilkerson  
Christopher Libertelli  
Eric Einhorn  
Cheryl Callahan  
Jared Carlson  
Jennifer Salhus  
Pam Slipokoff  
Jennifer Tomchin