



October 2, 2003

VIA ELECTRONIC MAIL DELIVERY

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Written *Ex Parte* Presentation by
T-Mobile USA, Inc. in CC Docket No. 95-116

Dear Chairman Powell:

I am writing on behalf of T-Mobile USA, Inc. (“T-Mobile”) to provide the Commission with our views on the guidance necessary to facilitate the successful implementation of wireless-to-wireless local number portability (“LNP”) in a manner that is efficient, pro-competitive and consumer friendly. There are a number of open questions regarding the implementation of wireless-to-wireless LNP that are ripe for resolution, and T-Mobile offers the following suggested answers to those questions.

One question that is before the Commission is whether wireless carriers may impose restrictions on the ability of their customers to port active numbers to other wireless carriers that serve the same geographic area (*i.e.*, can originate and terminate calls to the rate center with which the ported number is associated). T-Mobile recommends that the Commission clarify that, consistent with the Telecommunications Act of 1996 (the “Act”) and current FCC LNP rules and policies, wireless carriers cannot impose restrictions on the ability of their customers to port active numbers to other carriers that serve the same geographic area. In particular, the Commission should clarify that a wireless carrier (the “old carrier”) cannot deny an otherwise valid port request solely because:

- the customer has a delinquent account;
- the new wireless carrier (“new carrier”) has not agreed to assume financial responsibility for any unpaid account balance or termination fee owed to the old carrier

- the new carrier does not have its own numbering resources in the rate center with which the number is associated;
- the new carrier does not have to have a point of connection (“POI”) with the old carrier in the rate center with which the number is associated;
- the new carrier does not have any facilities in the rate center with which the number is associated;
- the old carrier does not have an interconnection agreement with the new carrier;
- the old carrier is not directly interconnected with the new carrier; or
- the old carrier has a contract provision or other arrangement that purportedly prevents the customer from porting the number to the new carrier under these or other circumstances, or requires the customer to contact the old carrier before a port request will be honored.

These requirements or limitations do not apply to LNP today, and they clearly are not contemplated by the Commission’s rules governing implementation of number portability by wireless carriers. Thus the Commission has the authority to grant the requested clarification with respect to wireless-to-wireless LNP without further notice and comment.¹ Therefore, in order to advance the goals it has set for LNP, the Commission should clarify that, upon request by an end user, a wireless carrier must port an active number to any wireless carrier that serves the rate center with which the number is associated.

Another question that the Commission should address is what porting interval for simple ports is reasonable.² T-Mobile recommends that the Commission clarify that a porting interval of a few hours for simple ports is reasonable. The WNPSC Phase II Report, which the North American Numbering Council (“NANC”) approved on September 19, 2000 and submitted to the Commission for adoption on September 26, 2000, concluded that

¹ By contrast, however, an additional notice and comment period would be necessary if the Commission were to allow carriers to impose these additional requirements for the first time.

² The Commission should clarify the porting interval for simple ports, but not for complex ports. *See* North American Numbering Council (NANC) Wireless Number Portability Subcommittee (WNPSC) report on Wireless Number Portability Technical, Operational, and Implementation Requirements Phase II (“*WNPSC Phase II Report*”), Appendix A, Section 4.3.2.3 (defining and explaining complex ports). The porting interval for complex ports should be based upon negotiated business arrangements. (“Complex ports require additional pre ordering coordination and associated port due dates and times based upon negotiated business arrangements. *Refer to Appendix C, 2nd Report on Wireless Wireline Integration, section 5.1.*”).

for wireless to wireless ports, the porting interval for the ICP WPR is 30 minutes, i.e. the exchange of information between wireless SPs. For wireless to wireless ports, the interval for exchanging porting messages with the NPAC is 2 hours. Thus, the total wireless to wireless port interval is 2-1/2 hours. *Refer to Appendix C, 2nd Report on Wireless Wireline Integration, Table 3.*³

Nearly all of the major wireless carriers, or their predecessors, participated in the adoption of this report or its approval at NANC.⁴ Therefore, the record in the above-referenced proceeding provides ample support for a Commission finding that the wireless industry itself has concluded that a porting interval of 2 ½ hours for simple ports is consistent with the requirements of Sections 201(b) and 202(a) of the Act.⁵ Although the Commission may not have provided sufficient notice to adopt a specific porting interval by rule at this time, it would nevertheless be helpful to have guidance from the agency on this issue. Accordingly, we suggest that the Commission find, consistent with the record above, that a porting interval of 2 ½ hours for simple ports between wireless carriers would be a reasonable, technically-feasible and pro-competitive benchmark.

By issuing the clarifications and guidance T-Mobile proposes, the Commission can help ensure that wireless LNP is implemented in an efficient and equitable manner.

As required by Section 1.1206(b) of the Commission's Rules, I am filing electronically an ex parte notification of this written presentation for inclusion in the public record of the above-referenced proceeding.

³ See WNPSC Phase II Report. This report was submitted to the NANC at its July 19, 2000, meeting and was adopted by the Council at its September 19, 2000, meeting.

⁴ See, e.g., WNPSC Phase II Report at Appendix G (listing the members of the WNPSC as Airtouch, Alcatel USA, Ameritech, Ameritech Cellular, AT&T, AT&T Wireless, Bell Mobility, BellSouth, Bellsouth Cellular Corp., BellSouth Science & Technology, Clearnet, Cox, DSET, Ericsson Communications, Evolving Systems Inc., GTE Corp., GTE Network Services, GTE Wireless, Illuminet, Intermedia Communications Inc, Lockheed Martin, MCI, MCI/World Com, Metapath Software, International, Microcell Telecommunications, NENA, Neustar, Nortel Networks, PCIA, SBC, SBC Wireless, Sprint Corp., Sprint PCS, Stentor, Telcordia Technologies, Telecom Software Enterprises, Ulticom, US West, US West Wireless, Voicestream, Winstar, and World Com).

⁵ 47 U.S.C. §§201(b), 202(a).

The Honorable Michael K. Powell

October 2, 2003

Page Four

Please direct any questions regarding this matter to the undersigned.

Sincerely,

/s/ David A. Miller

David A. Miller

Senior Vice President & General Counsel

T-Mobile USA, Inc.

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