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EX PARTE

October 10, 2003

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

Re: *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, *Triennial Review Order*, CC Docket No. 01-338

In the Matter of Telephone Number Portability, CC Docket No. 95-116 and *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45

Dear Ms. Dortch:

On October 9, 2003, Melissa Newman, Craig Brown and Cronan O'Connell of Qwest Communications International Inc. ("Qwest") met with Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, to discuss two separate issues. First, Qwest addressed issues regarding the service eligibility criteria for enhanced extended links ("EELs") that were adopted in the *Triennial Review Order*, including the need for the Federal Communications Commission ("Commission") to clarify that appropriate documentation, at time of ordering, must be provided to validate the use of EELs consistent with the Commission's intent. Further, Qwest discussed potential lingering uncertainty regarding the nature of section 271 unbundling obligations.

Second, Qwest discussed Intermodal Local Number Portability ("LNP"). With regard to Intermodal LNP, Qwest addressed the competitive inequities for all providers who implemented LNP according to the Commission's rules, in effect since 1996, should the Commission alter the current LNP rules and the current criteria that all parties abide by today, but are at present being opposed by wireless providers. In this regard, Qwest discussed the fact that it will be limited in its ability to compete for a large percentage of the wireless customer base on November 24, 2003 -- and wireless customers will be limited in their ability to port to Qwest wireline -- where there is a "mismatch" between the rate center to which the customer's NPA-NXX of the telephone number ("TN") is assigned and the rate center in which the customer is physically located. Qwest discusses this issue in detail below.

THE MISMATCH

If the Commission implements Intermodal LNP between the wireline and wireless carriers on November 24, 2003, Qwest is ready to port between wireline and wireless carriers within the rate center in such instances where the customer, at the same location, ports a number between carriers and where the NPA-NXX of the customer's TN matches the rate center of the customer's physical address. Such criteria allow all providers to have an equal opportunity to market to -- and compete for -- the entire customer base within the rate center.

Today, the wireline carriers match the rate center that is assigned the NPA-NXX of the customer's TN to the rate center in which the customer physically resides. This match allows customer calls to be billed correctly. For example, in the Qwest network architecture each switch within a specific rate center has a specific set of NPA-NXXs which correspond to that rate center. The switch translations, driven by NPA-NXX tables, determine which calls are local and which calls are toll. Today, NPA-NXXs are dedicated to a specific rate center and cannot be divided across multiple rate centers. Therefore, porting across rate center boundaries would violate these basic number assignment practices and could lead to widespread customer confusion -- including incorrect billing.

For wireline to wireline service provider portability ports, this match creates a porting environment that is relatively straightforward and logical. If an order for a port creates a mismatch between the rate center to which the NPA-NXX of the TN has been assigned and the rate center in which the customer physically resides, Qwest requires that the customer change his/her TN when purchasing service from Qwest. Otherwise, such a port would constitute a port across a rate center boundary which could lead to billing and network problems.[1]

Conversely, wireless companies, due to their unique network architecture and technology, do not match the customer's physical address to the rate center to which the NPA-NXX of the TN is assigned at the time service is ordered by a wireless customer. Therefore, in circumstances where the TN and the physical address are mismatched, wireline companies will not be able to compete on a level playing field with the wireless companies for the entire customer base within a rate center. Moreover, wireless customers will be restricted in their ability to port away from a wireless provider to a competing wireline provider short of changing their TN (*see* attached drawing). Based on this lack of competitive neutrality and the potential for widespread customer confusion due to this "mismatch" problem, Qwest urges the Commission to include the mismatch problem in the *Intermodal LNP Further Notice of Proposed Rulemaking*.

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[1] *See* Qwest's *ex partes* filed Sep. 17, 2003 and July 24, 2003 in CC Docket No. 95-116.

Therefore, for wireline to wireless service provider portability to meet the public interest, competitive neutrality and technological neutrality, it requires the Commission to:

1. Reaffirm service provider portability is within the rate center
    - Any modifications to the definition require an *FNPRM*;
2. Reaffirm service provider portability requires that the customer does not change his/her physical location (*see* Sprint PCS *ex parte*, dated Sep. 22, 2003 at 10);

    > A[n] [incumbent local exchange carrier's] duty to provide LNP is imposed by statute and this statutory duty extends to all telecommunications carriers (including wireless carriers) that provide their services "at the same location" as the ILEC customer wanting to port.

3. Reaffirm all carriers, regardless of technology, have an equal opportunity to market to the entire customer base within a rate center thereby addressing the "mismatch" problem in an *FNPRM*;
4. Reaffirm customer moves outside a rate center require a TN change;
    - Any modifications to the definition require an *FNPRM*
5. Affirm the Commission's commitment to reasonable transitions when changes fundamentally impact a carrier's way of doing business and associated systems changes;
6. Reaffirm interconnection agreements as a contractual vehicle;
7. Reaffirm porting intervals within today's wireline intervals (3 days);
8. Initiate an *FNPRM* to address the fundamental LNP problems within the rate center including "mismatches"; and begin to ask the appropriate questions and establish a record to determine the long term LNP scope between all types of providers and technologies.

In accordance with Commission 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 proceedings pursuant to Commission Rule 47 C.F.R. § 1.1206(b)(2).

Sincerely,
/s/ Cronan O'Connell

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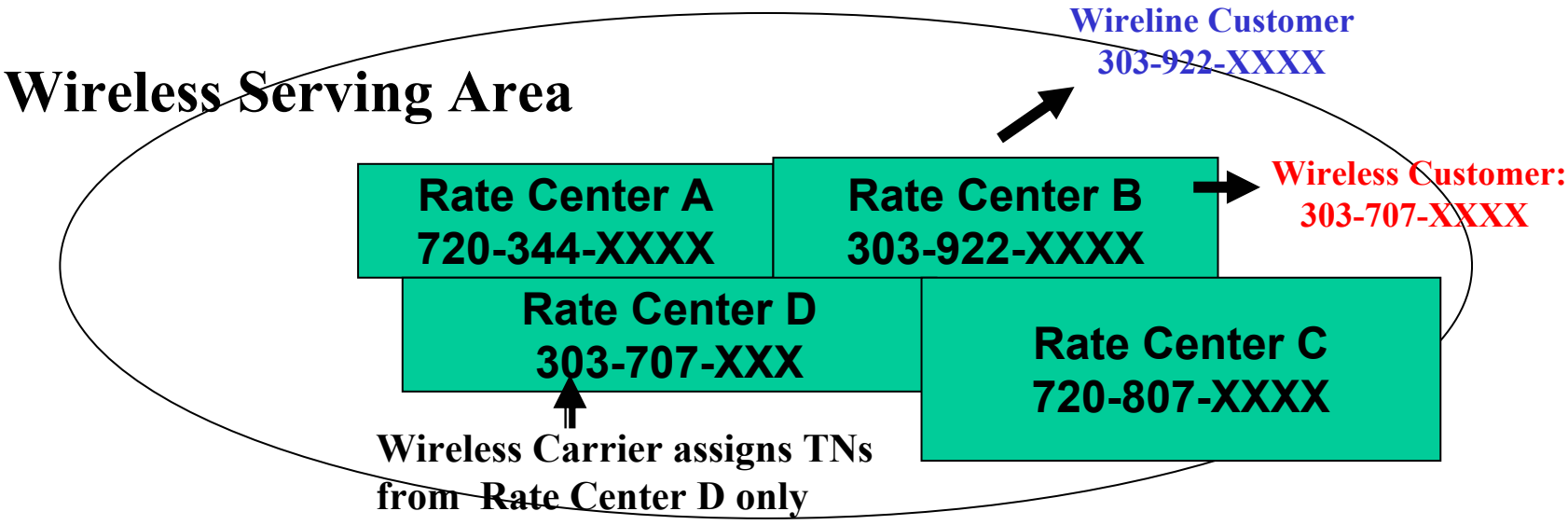
The Mismatch Problem



Two customers live in Rate Center B.
Wireline Customer TN and physical address **match** Rate Center B: **303-922-XXXX**
Wireless Customer TN and physical address **do not match** Rate Center B: **303-707-XXXX**

Scenario 1:
Both Customers *want to port their numbers to a **wireline carrier***. Customers do not move
Result: Wireline Customer keeps his TN and ports to another wireline carrier
Result: Wireless Customer must change his TN to move to a wireline provider

Scenario 2:
Customers *want to port their numbers to **a wireless carrier***. Customers do not move
Result: Wireline Customer can keep his TN and ports to wireless carrier
Result: Wireless Customer can keep his TN and port to wireless carrier

Impact: The Mismatch results in lack of competitive neutrality